

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
127<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE  
AND PUBLIC SAFETY**

May 2016

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# STATE OF MAINE

127<sup>TH</sup> LEGISLATURE

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## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the Second Regular Session of the 127<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

*CARRIED OVER*..... *carried over to a subsequent session of the Legislature*  
*CON RES XXX*..... *chapter # of constitutional resolution passed by both houses*  
*CONF CMTE UNABLE TO AGREE*..... *Committee of Conference unable to agree; legislation died*  
*DIED BETWEEN HOUSES*..... *House & Senate disagreed; legislation died*  
*DIED IN CONCURRENCE*..... *defeated in each house, but on different motions; legislation died*  
*DIED ON ADJOURNMENT*..... *action incomplete when session ended; legislation died*  
*EMERGENCY*..... *enacted law takes effect sooner than 90 days after session adjournment*  
*FAILED, EMERGENCY ENACTMENT or PASSAGE*..... *emergency failed to receive required 2/3 vote*  
*FAILED, ENACTMENT or FINAL PASSAGE*..... *failed to receive final majority vote*  
*FAILED, MANDATE ENACTMENT*..... *legislation proposing local mandate failed required 2/3 vote*  
*HELD BY GOVERNOR*..... *Governor has not signed; final disposition to be determined at subsequent session*  
*LEAVE TO WITHDRAW*..... *sponsor's request to withdraw legislation granted*  
*NOT PROPERLY BEFORE THE BODY*..... *ruled out of order by the presiding officer; legislation died*  
*INDEF PP*..... *indefinitely postponed; legislation died*  
*ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X*... *ought-not-to-pass report accepted; legislation died*  
*P&S XXX*..... *chapter # of enacted private & special law*  
*PUBLIC XXX*..... *chapter # of enacted public law*  
*RESOLVE XXX*..... *chapter # of finally passed resolve*  
*VETO SUSTAINED*..... *Legislature failed to override Governor's veto*

The effective date for non-emergency legislation enacted in the First Regular Session of the 127<sup>th</sup> Legislature is July 29, 2016. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

*Joint Standing Committee on Criminal Justice and Public Safety*

Public Law 2015, chapter 485 raises the class of crime for the illegal importation of scheduled drugs from a Class C crime to a Class B crime if the drug is a schedule W drug and from a Class D crime to a Class C crime if the drug is a schedule X, Y or Z drug.

The law also creates the crime of aggravated illegal importation of scheduled drugs. Under the law, which is based on the crime of aggravated trafficking of scheduled drugs, certain aggravating factors, such as a prior conviction, using a child under 18 years of age to assist with the illegal importation or the quantity of drugs being imported, raise the class of crime by one class. A Class A violation of aggravated illegal importation of drugs carries a minimum sentence of four years and a Class B carries a minimum sentence of two years.

**LD 1554**

**An Act To Resolve Inconsistencies in the Drug Laws**

**PUBLIC 496**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROSEN K	OTP-AM	S-418
DAVITT J	OTP-AM	H-664 DION M

This bill corrects a conflict created by Public Law 2015, chapters 308 and 346, which affected the same provision of law. It repeals the provision and replaces it with a new version that provides that a person is guilty of unlawful possession of a scheduled drug and commits a Class C crime if the person intentionally or knowingly possesses what that person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is a schedule W drug that contains:

1. Heroin;
2. Cocaine in the form of cocaine base, oxycodone, hydrocodone or hydromorphone and at the time of the offense the person had one or more convictions for violating the State's drug laws or for engaging in substantially similar conduct to that of offenses under the State's drug laws in another jurisdiction;
3. Methamphetamine;
4. Oxycodone and the aggregate quantity of pills, capsules, tablets, mixtures or substances is equal to or more than 30 milligrams;
5. Fentanyl powder;
6. Cocaine and the quantity possessed is seven grams or more; or
7. Cocaine in the form of cocaine base and the quantity possessed is two grams or more.

**Committee Amendment "A" (S-417)**

This amendment is the majority report of the committee. This amendment repeals two conflicting versions of the Maine Revised Statutes, Title 17-A, section 1107-A, subsection 1, paragraph B, which was amended by Public Law 2015, chapter 308, section 2 and chapter 346, section 6. The amendment resolves the conflicts and enacts a new version of Title 17-A, section 1107-A, subsection 1, paragraph B. Under this amendment, and subject to other provisions of law that address the quantities of drugs possessed:

1. The first offense of possession of oxycodone, hydrocodone or hydromorphone is a Class D crime, and a second or subsequent offense is a Class C crime;
2. Possession of heroin, methamphetamine and fentanyl powder is a Class C crime;

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3. Possession of cocaine in a quantity of 14 grams or more is a Class C crime and possession of less than 14 grams is a Class D crime; and
4. Possession of cocaine in the form of cocaine base if the quantity is four grams or more or if the offense is a second or subsequent offense is a Class C crime.

This amendment also amends the law on affirmative defenses to charges of possession of schedule W prescription drugs to take into account reordering in Title 17-A, section 1107-A, subsection 1, paragraph B the list of prescription drugs and amends the law on deferred disposition under Title 17-A, section 1348-A to affirmatively state that deferred disposition is a preferred disposition in a prosecution for possession of schedule W drugs under Title 17-A, section 1107-A, subsection 1, paragraph B.

This amendment was not adopted.

### **Committee Amendment "B" (S-418)**

This amendment is the minority report of the committee. The amendment repeals two conflicting versions of the Maine Revised Statutes, Title 17-A, section 1107-A, subsection 1, paragraph B, which was amended by Public Law 2015, chapter 308, section 2 and chapter 346, section 6. The amendment resolves the conflict and enacts a new version of Title 17-A, section 1107-A, subsection 1, paragraph B. Under this amendment, and subject to other provisions of law that address the quantities of drugs possessed:

1. The first offense of possession of heroin, methamphetamine, oxycodone, hydrocodone, hydromorphone or fentanyl powder, or cocaine in the form of cocaine base if the quantity possessed is two grams or more, is a Class D crime;
2. The second and subsequent offenses of possession of heroin, methamphetamine, oxycodone, hydrocodone, hydromorphone or fentanyl powder, or cocaine in the form of cocaine base if the quantity possessed is 2 grams or more, is a Class C crime;
3. The first offense and the second and subsequent offenses of possession of cocaine in the form of cocaine base if the quantity possessed is less than two grams is a Class D crime; and
4. By the interaction of Title 17-A, section 1107-A, subsection 1, paragraphs A, B and C, the possession of cocaine in any quantity of 14 grams or less regardless of whether the offense is a first or subsequent offense is a Class D crime.

### **House Amendment "A" To Committee Amendment "B" (H-664)**

This amendment repeals two conflicting versions of the Maine Revised Statutes, Title 17-A, section 1107-A, subsection 1, paragraph B, which was amended by Public Law 2015, chapter 308, section 2 and chapter 346, section 6. The amendment resolves the conflicts. Under this amendment, as long as a person does not have one or more prior convictions for furnishing or trafficking scheduled drugs or operation of a methamphetamine laboratory, possession of the following is a Class D crime:

1. Heroin in the amount of 200 milligrams or less;
2. Cocaine in the amount of two grams or less;
3. Cocaine in the form of cocaine base in the amount two grams or less;
4. Oxycodone in the amount of 200 milligrams or less;
5. Hydrocodone in the amount of 200 milligrams or less;

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6. Hydromorphone in the amount of 200 milligrams or less;
7. Methamphetamine in the amount of 200 milligrams or less; or
8. Fentanyl powder in the amount of 200 milligrams or less.

For a person who has one or more convictions for violating the laws governing furnishing or trafficking scheduled drugs or operating a methamphetamine laboratory, possession of the above-listed scheduled drugs is a Class C crime.

This amendment also amends the law on affirmative defenses to charges of possession of schedule W prescription drugs and amends the law on deferred disposition under Title 17-A, section 1348-A to affirmatively state that deferred disposition is a preferred disposition in a prosecution for possession of schedule W drugs under Title 17-A, section 1107-A, subsection 1, paragraphs B and B-1.

### **Enacted Law Summary**

Public Law 2015, chapter 496 repeals two conflicting versions of the Maine Revised Statutes, Title 17-A, section 1107-A, subsection 1, paragraph B and enacts a new version. Public Law 2015, chapter 496 amends the laws on possession of schedule W drugs so that:

1. As long as a person does not have one or more prior convictions for furnishing or trafficking scheduled drugs or operation of a methamphetamine laboratory, possession of the following is a Class D crime:
  - A. Heroin in the amount of 200 milligrams or less;
  - B. Cocaine in the amount of two grams or less;
  - C. Cocaine in the form of cocaine base in the amount two grams or less;
  - D. Oxycodone in the amount of 200 milligrams or less;
  - E. Hydrocodone in the amount of 200 milligrams or less;
  - F. Hydromorphone in the amount of 200 milligrams or less;
  - G. Methamphetamine in the amount of 200 milligrams or less; or
  - H. Fentanyl powder in the amount of 200 milligrams or less;
2. For a person who has one or more convictions for violating the laws governing furnishing or trafficking scheduled drugs or operating a methamphetamine laboratory, possession of the above-listed scheduled drugs is a Class C crime;
3. For a person charged with possession, deferred disposition is a preferred disposition in a prosecution for possession of schedule W drugs under Title 17-A, section 1107-A, subsection 1, paragraphs B and B-1; and
4. For a person who is charged with possession of schedule W drugs the affirmative defense of possession of a valid prescription applies to each subsection of Title 17-A, section 1107-A under which that person could be charged.