

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Resolve Inconsistencies in the Drug Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRS §1107-A, sub-§1, ¶B, as amended by PL 2015, c. 308, §2 and c. 346, §6, is repealed and the following enacted in its place:

B. A schedule W drug that contains:

(1) Heroin (diacetylmorphine);

(2) Cocaine in the form of cocaine base and at the time of the offense the person had one or more convictions for violating this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter 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) Oxycodone and at the time of the offense the person had one or more convictions for violating this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction;

(6) Hydrocodone and at the time of the offense the person had one or more convictions for violating this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction;

(7) Hydromorphone and at the time of the offense the person had one or more convictions for violating this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction;

(8) Fentanyl powder;

(9) Cocaine and the quantity possessed is 7 grams or more; or

(10) Cocaine in the form of cocaine base and the quantity possessed is 2 grams or more.

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of a prior conviction may precede the commission of the offense by more than 10 years.

Violation of this paragraph is a Class C crime;

Sec. 2. 17-A MRSA §1107-A, sub-§4, as amended by PL 2011, c. 464, §19, is further amended to read:

4. It is an affirmative defense to prosecution under subsection 1, paragraph B, subparagraphs (3) to ~~(6)~~(7) and paragraphs C to F that the person possessed a valid prescription for the scheduled drug or controlled substance that is the basis for the charge and that, at all times, the person intended the drug to be used only for legitimate medical use in conformity with the instructions provided by the prescriber and dispenser.

SUMMARY

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 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 7 grams or more; or
7. Cocaine in the form of cocaine base and the quantity possessed is 2 grams or more.