

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

Amend the amendment by striking out all of section 1 and inserting the following:

**Sec. 1. 17-A MRSA §1101, sub-§18, ¶C**, as amended by PL 2015, c. 346, §2, is further amended to read:

C. To possess ~~at least one gram~~ more than 200 milligrams but less than 2 grams of heroin or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing heroin; or

**Sec. 2. 17-A MRSA §1101, sub-§18, ¶D**, as enacted by PL 2015, c. 346, §2, is amended to read:

D. To possess ~~at least one gram~~ more than 200 milligrams but less than 2 grams of fentanyl powder or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder.

**Sec. 3. 17-A MRSA §1106, sub-§3, ¶B**, as amended by PL 1999, c. 531, Pt. I, §6, is further amended to read:

B. ~~Seven~~ More than 2 grams or more of cocaine or 2 grams or more of cocaine in the form of cocaine base;

**Sec. 4. 17-A MRSA §1106, sub-§3, ¶E**, as amended by PL 2001, c. 419, §17, is further amended to read:

E. ~~Seven grams or more~~ More than 200 milligrams of methamphetamine;

**Sec. 5. 17-A MRSA §1106, sub-§3, ¶¶F and G**, as enacted by PL 2001, c. 419, §18, are amended to read:

F. ~~Forty-five or more~~ Any quantity of pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin that, in the aggregate, contains more than 200 milligrams of the narcotic drug;

G. Any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains ~~not less than 400~~ more than 200 milligrams of oxycodone or ~~not less than 50~~ more than 200 milligrams of hydromorphone; or

**Sec. 6. 17-A MRSA §1107-A, sub-§1, ¶B**, as amended by PL 2015, c. 308, §2 and c. 346, §6, is repealed and the following enacted in its place: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. Except as provided in paragraph B-1, a schedule W drug and the drug contains:

(1) Heroin (diacetylmorphine) and the amount possessed is more than 200 milligrams;

- (2) Cocaine and the amount possessed is more than 2 grams;
- (3) Cocaine in the form of cocaine base and the amount possessed is more than 2 grams;
- (4) Oxycodone and the amount possessed is more than 200 milligrams;
- (5) Hydrocodone and the amount possessed is more than 200 milligrams;
- (6) Hydromorphone and the amount possessed is more than 200 milligrams;
- (7) Methamphetamine and the amount possessed is more than 200 milligrams; or
- (8) Fentanyl powder and the amount possessed is more than 200 milligrams.

Violation of this paragraph is a Class C crime;

**Sec. 7. 17-A MRSA §1107-A, sub-§1, ¶B-1** is enacted to read:

B-1. A schedule W drug and that drug contains any of the following and at the time of the offense the person had one or more convictions for violating section 1103, 1105-A, 1105-C, 1105-E, 1106 or section 1124 or for engaging in substantially similar conduct in another jurisdiction:

- (1) Heroin (diacetylmorphine);
- (2) Cocaine;
- (3) Cocaine in the form of cocaine base;
- (4) Oxycodone;
- (5) Hydrocodone;
- (6) Hydromorphone;
- (7) Methamphetamine; or
- (8) Fentanyl powder.

Violation of this paragraph is a Class C crime:

**Sec. 8. 17-A MRSA §1107-A, sub-§1, ¶C**, as enacted by PL 2001, c. 383, §127 and affected by §156, is amended to read:

C. A schedule W drug, except as provided in paragraphs A and B and B-1. Violation of this paragraph is a Class D crime;

**Sec. 9. 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)(4) to (6); subsection 1, paragraph B-1, subparagraphs (4) to (6); 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.

**Sec. 10. 17-A MRSA §1348-A, sub-§5** is enacted to read:

5. A deferred disposition is a preferred disposition in a prosecution for possession of schedule W drugs under section 1107-A, subsection 1, paragraphs B and B-1.

## SUMMARY

This amendment repeals 2 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 2 grams or less;
3. Cocaine in the form of cocaine base in the amount 2 grams or less;
4. Oxycodone in the amount of 200 milligrams or less;
5. Hydrocodone in the amount of 200 milligrams or less;
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 to reflect the changes made by this Act 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.