**An Act To Make Possession of Scheduled Drugs for Personal Use a Civil Penalty**

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

**Sec.** **1. 17-A MRSA §1106-A, sub-§2,** as amended by PL 2001, c. 383, §125 and affected by §156, is repealed.

**Sec.** **2. 17-A MRSA §1107-A,** as amended by PL 2019, c. 12, Pt. B, §§8 and 9, is repealed and the following enacted in its place:

**§****1107-A.** **Unlawful possession of scheduled drugs**

Unless otherwise specified, possession of a schedule W, X, Y or Z drug is a civil violation for which a fine of up to $100 may be adjudged. If a person in violation of this section is unable to pay the fine, as an alternative sentence in place of the fine the court may refer the person to a licensed health care provider or drug treatment facility or program provider to conduct an evidence-based assessment for proposed treatment appropriate for a person with substance use disorder as defined in Title 5, section 20003, subsection 17-A.

**Sec.** **3. 17-A MRSA §1111-B,** as enacted by PL 2019, c. 137, §1 and amended by c. 292, §1, is further amended to read:

**§****1111-B.** **Exemption from criminal liability for reporting a drug-related medical** **emergency or administering naloxone**

A person who in good faith seeks medical assistance for or administers naloxone hydrochloride to another person experiencing a drug-related overdose or who is experiencing a drug-related overdose and is in need of medical assistance may not be arrested or prosecuted for a violation of section ~~1107‑A,~~ 1108, 1111 or 1111‑A or a violation of probation as authorized by chapter 49 if the grounds for arrest or prosecution are obtained as a result of the person's seeking medical assistance, administering naloxone hydrochloride or experiencing a drug-related overdose.

**Sec.** **4. 17-A MRSA §1126, sub-§1,** as enacted by PL 2019, c. 113, Pt. B, §17, is amended to read:

**1.** **Fine based on value of scheduled drugs at time of offense.**  As authorized by section 1706, subsection 3, if the State pleads and proves the value at the time of the commission of a crime of a scheduled drug that is the basis for a conviction under section 1103, 1105‑A, 1105‑B, 1105‑C, 1105‑D~~,~~ or 1106 ~~or 1107‑A~~, the convicted person may be sentenced to pay a fine in an amount up to the value, as pleaded and proved by the State, of that scheduled drug.

**Sec.** **5. 17-A MRSA §1126, sub-§2,** as enacted by PL 2019, c. 113, Pt. B, §17, is amended to read:

**2.** **Mandatory minimum fine barring court finding exceptional circumstances.**  In addition to any other authorized sentencing alternative specified in section 1502, subsection 2 for individuals or section 1502, subsection 7 for organizations, the court shall impose a minimum fine of $400, none of which may be suspended, except as provided in subsection 3, for an individual convicted of a crime under section 1103; 1104; 1105‑A; 1105‑B; 1105‑C; 1105‑D; 1106; ~~1107‑A;~~ 1108; 1109; 1110; 1111; 1111‑A, subsection 4‑A; 1116; 1117; or 1118.

**Sec.** **6. 17-A MRSA §1902, sub-§5,** as enacted by PL 2019, c. 113, Pt. A, §2, is repealed.

**SUMMARY**

This bill changes the unlawful possession of scheduled drugs from a crime to a civil violation for which a fine of not more than $100 may be adjudged, or if the defendant is unable to pay the fine allows the court to refer the person to a provider for an evidence-based assessment for proposed treatment for substance use disorder.