



125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1827

H.P. 1348

House of Representatives, February 17, 2012

An Act To Amend the Laws Governing Prosecution of Individuals Possessing a Controlled Substance under Certain Circumstances

Reported by Representative STRANG BURGESS of Cumberland for the Joint Standing Committee on Health and Human Services pursuant to Joint Order, H.P. 1328.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

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

2 **Sec. 1. 17-A MRSA §1107-A, sub-§1**, as amended by PL 2009, c. 67, §2, is
3 further amended to read:

4 **1.** Except as provided in ~~subsection~~ subsections 2 and 2-A, a person is guilty of
5 unlawful possession of a scheduled drug if the person intentionally or knowingly
6 possesses what that person knows or believes to be a scheduled drug, which is in fact a
7 scheduled drug, and the drug is:

8 A. A schedule W drug that is:

- 9 (1) Cocaine and the quantity possessed is more than 14 grams;
10 (2) Cocaine in the form of cocaine base and the quantity possessed is more than
11 4 grams; or
12 (3) Methamphetamine and the quantity possessed is more than 14 grams.

13 Violation of this paragraph is a Class B crime;

14 B. A schedule W drug that contains:

- 15 (1) Heroin (diacetylmorphine);
16 (2) Cocaine in the form of cocaine base and at the time of the offense the person
17 has one or more prior convictions for any offense under this chapter or for
18 engaging in substantially similar conduct to that of the Maine offenses under this
19 chapter in another jurisdiction. For the purposes of this paragraph, a person has
20 been convicted of an offense on the date the judgment of conviction was entered
21 by the court;
22 (3) Methamphetamine;
23 (4) Oxycodone;
24 (5) Hydrocodone; or
25 (6) Hydromorphone.

26 Violation of this paragraph is a Class C crime;

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

29 D. A schedule X drug. Violation of this paragraph is a Class D crime;

30 E. A schedule Y drug. Violation of this paragraph is a Class E crime; or

31 F. A schedule Z drug. Violation of this paragraph is a Class E crime unless the drug
32 is marijuana, in which case a violation of this paragraph is:

- 33 (1) For possession of over 2 1/2 ounces to 8 ounces of marijuana, a Class E
34 crime;
35 (2) For possession of over 8 ounces to 16 ounces of marijuana, a Class D crime;

1 (3) For possession of over one pound to 20 pounds of marijuana, a Class C
2 crime; and

3 (4) For possession of over 20 pounds of marijuana, a Class B crime.

4 **Sec. 2. 17-A MRSA §1107-A, sub-§2-A** is enacted to read:

5 2-A. A person is not guilty of unlawful possession of a scheduled drug if the
6 evidence for the charge of possession of the scheduled drug is gained as a result of the
7 person's:

8 A. Seeking medical assistance, in good faith, for someone experiencing a drug-
9 related overdose; or

10 B. Seeking medical assistance when experiencing a drug-related overdose.

11 **SUMMARY**

12 This bill provides an exception to the crime of unlawful possession of a scheduled
13 drug for a person charged with that crime if the evidence for the charge is gained as a
14 result of the person's seeking medical assistance for a drug-related overdose. This bill is a
15 recommendation from the Substance Abuse Services Commission's work group convened
16 pursuant to Resolve 2011, chapter 81 and is submitted by the Joint Standing Committee
17 on Health and Human Services.