



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 449

S.P. 127

In Senate, January 29, 2019

**An Act To Impose a Mandatory Sentence for the Crime of
Aggravated Unlawful Operation of a Methamphetamine Laboratory**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator KEIM of Oxford.
Cosponsored by Senators: CARPENTER of Aroostook, CYRWAY of Kennebec,
DESCHAMBAULT of York, ROSEN of Hancock, Representative: STEWART of Presque
Isle.

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

2 **Sec. 1. 17-A MRSA §1252, sub-§5-A**, as amended by PL 2015, c. 485, §5, is
3 further amended to read:

4 **5-A.** Notwithstanding any other provision of this Code, for a person convicted of
5 violating section 1105-A, 1105-B, 1105-C, 1105-D, 1105-E or 1118-A:

6 A. Except as otherwise provided in paragraphs B and C, the minimum sentence of
7 imprisonment, which may not be suspended, is as follows: When the sentencing class
8 is Class A, the minimum term of imprisonment is 4 years; when the sentencing class
9 is Class B, the minimum term of imprisonment is 2 years; and, with the exception of
10 a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is
11 the basis for the charge is marijuana, when the sentencing class is Class C, the
12 minimum term of imprisonment is one year;

13 B. The court may impose a sentence other than a minimum unsuspended term of
14 imprisonment set forth in paragraph A, if:

15 (1) The court finds by substantial evidence that:

16 (a) Imposition of a minimum unsuspended term of imprisonment under
17 paragraph A will result in substantial injustice to the defendant. In making
18 this determination, the court shall consider, among other considerations,
19 whether the defendant did not know and reasonably should not have known
20 that the victim was less than 18 years of age;

21 (b) Failure to impose a minimum unsuspended term of imprisonment under
22 paragraph A will not have an adverse effect on public safety; and

23 (c) Failure to impose a minimum unsuspended term of imprisonment under
24 paragraph A will not appreciably impair the effect of paragraph A in
25 deterring others from violating section 1105-A, 1105-B, 1105-C, 1105-D,
26 1105-E or 1118-A; and

27 (2) The court finds that:

28 (c) The defendant's background, attitude and prospects for rehabilitation and
29 the nature of the victim and the offense indicate that imposition of a sentence
30 under paragraph A would frustrate the general purposes of sentencing set
31 forth in section 1151.

32 If the court imposes a sentence under this paragraph, the court shall state in writing
33 its reasons for its findings and for imposing a sentence under this paragraph rather
34 than under paragraph A; and

35 C. If the court imposes a sentence under paragraph B, the minimum sentence of
36 imprisonment, which may not be suspended, is as follows: When the sentencing class
37 is Class A, the minimum term of imprisonment is 9 months; when the sentencing is
38 Class B, the minimum term of imprisonment is 6 months; and, with the exception of
39 trafficking or furnishing marijuana under section 1105-A or 1105-C, when the
40 sentencing class is Class C, the minimum term of imprisonment is 3 months.

SUMMARY

1

2

3

This bill adds the crime of aggravated unlawful operation of a methamphetamine laboratory to the list of drug offenses that carry a mandatory 4-year minimum sentence.