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Date: (Filing No. H-)

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

HOUSE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 1147, L.D. 1562, Bill, “An Act To Prohibit the Sale or Possession of So-called Bath Salts Containing Dangerous Synthetic Drugs”

Amend the amendment by striking out everything after the enacting clause and before the emergency clause and inserting the following:

Sec. 1. 22 MRSA §§2390 to 2394 are enacted to read:

§2390. Unlawful possession of certain synthetic hallucinogenic drugs

1. Unlawful possession. It is unlawful for a person to possess certain synthetic hallucinogenic drugs if the person intentionally or knowingly possesses what that person knows or believes to be a certain synthetic hallucinogenic drug, which is in fact a certain synthetic hallucinogenic drug, and the drug is:

- A. 3, 4 - methylenedioxy methcathinone, MDMC;
- B. 3, 4 - methylenedioxy pyrovalerone, MDPV;
- C. 4 - methylmethcathinone, 4-MMC;
- D. 4 - methoxymethcathinone, bk-PMMA, PMMC;
- E. 3 - fluoromethcathinone, FMC;
- F. 4 - fluoromethcathinone, FMC;
- G. Napthylpyrovalerone, NRG-1; and
- H. Beta-keto-N-methylbenzodioxolypropylamine.

2. Penalties. The following penalties apply.

- A. A person who violates this section commits a civil violation for which a fine of not more than \$350 may be adjudged.
- B. A person who violates this section after having been previously adjudicated of violating this section commits a civil violation for which a fine of not more than \$500 may be adjudged.

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1 C. A person who violates this section after having been previously adjudicated of
2 violating this section 2 or more times commits a Class E crime.

3 **3. Repeal.** This section is repealed June 15, 2013.

4 **§2391. Unlawful trafficking in certain synthetic hallucinogenic drugs**

5 **1. Unlawful trafficking.** It is unlawful for a person to traffick in certain synthetic
6 hallucinogenic drugs if the person intentionally or knowingly trafficks in what the person
7 knows or believes to be a certain synthetic hallucinogenic drug, which is in fact a certain
8 synthetic hallucinogenic drug listed in section 2390. For purposes of this section,
9 "traffick" has the same meaning as in Title 17-A, section 1101, subsection 17.

10 **2. Penalties.** The following penalties apply.

11 A. A person who violates this section commits a Class E crime.

12 B. A person who violates this section after having been previously adjudicated of
13 violating this section commits a Class D crime.

14 **3. Use of a motor vehicle.** If a person uses a motor vehicle to facilitate the
15 trafficking in a certain synthetic hallucinogenic drug listed in section 2390, the court may,
16 in addition to other authorized penalties, suspend the person's driver's license or permit or
17 privilege to operate a motor vehicle or right to apply for or obtain a license for a period
18 not to exceed 5 years. A suspension may not begin until after any period of incarceration
19 is served. If the court suspends a person's driver's license or permit, privilege to operate a
20 motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary
21 of State of the suspension and the court shall take physical custody of the person's license
22 or permit. The Secretary of State may not reinstate the person's driver's license or permit
23 or privilege to operate a motor vehicle or right to apply for or obtain a license unless the
24 person demonstrates that, after having been released and discharged from any period of
25 incarceration that may have been ordered, the person has served the period of suspension
26 ordered by the court.

27 **4. Repeal.** This section is repealed June 15, 2013.

28 **§2392. Aggravated trafficking in certain synthetic hallucinogenic drugs**

29 **1. Unlawful aggravated trafficking.** A person is guilty of aggravated trafficking in
30 certain synthetic hallucinogenic drugs if the person violates section 2391 and:

31 A. The person trafficks in a certain synthetic hallucinogenic drug with a child who is
32 in fact less than 18 years of age;

33 B. At the time of the offense, the person has one or more prior adjudications for any
34 violation under this chapter or for engaging in substantially similar conduct in
35 another jurisdiction;

36 C. At the time of the offense, the person possesses a firearm in the furtherance of the
37 offense, uses a firearm, carries a firearm or is armed with a firearm;

38 D. At the time of the offense, the person is on a school bus or within 1,000 feet of the
39 real property comprising a private or public elementary or secondary school or a safe
40 zone as defined in Title 17-A, section 1101, subsection 23. For purposes of this

1 paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301,
2 subsection 5; or

3 E. At the time of the offense, the person enlists or solicits the aid of or conspires with
4 a child who is in fact less than 18 years of age to traffick in a certain synthetic
5 hallucinogenic drug.

6 **2. Penalty.** Violation of this section is a Class C crime.

7 **3. Use of a motor vehicle.** If a person uses a motor vehicle to facilitate the
8 aggravated trafficking in a certain synthetic hallucinogenic drug, the court may, in
9 addition to other authorized penalties, suspend the person's driver's license or permit or
10 privilege to operate a motor vehicle or right to apply for or obtain a license for a period
11 not to exceed 5 years. A suspension may not begin until after any period of incarceration
12 is served. If the court suspends a person's driver's license or permit or privilege to operate
13 a motor vehicle or right to apply for or obtain a license, the court shall notify the
14 Secretary of State of the suspension and the court shall take physical custody of the
15 person's license or permit. The Secretary of State may not reinstate the person's driver's
16 license or permit or privilege to operate a motor vehicle or right to apply for or obtain a
17 license unless the person demonstrates that, after having been released and discharged
18 from any period of incarceration that may have been ordered, the person has served the
19 period of suspension ordered by the court.

20 **4. Repeal.** This section is repealed June 15, 2013.

21 **§2393. Unlawfully furnishing certain synthetic hallucinogenic drugs**

22 **1. Unlawful furnishing.** It is unlawful for a person to furnish certain synthetic
23 hallucinogenic drugs if the person intentionally or knowingly furnishes what the person
24 knows or believes to be a certain synthetic hallucinogenic drug, which is in fact a certain
25 synthetic hallucinogenic drug listed in section 2390.

26 **2. Penalties.** The following penalties apply.

27 A. A person who violates this section commits a Class E crime.

28 B. A person who violates this section after having been previously adjudicated as
29 violating this section commits a Class D crime.

30 **3. Use of a motor vehicle.** If a person uses a motor vehicle to facilitate the unlawful
31 furnishing of a certain synthetic hallucinogenic drug, the court may, in addition to other
32 authorized penalties, suspend the person's driver's license or permit or privilege to operate
33 a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years.
34 A suspension may not begin until after any period of incarceration is served. If the court
35 suspends a person's driver's license or permit or privilege to operate a motor vehicle or
36 right to apply for or obtain a license, the court shall notify the Secretary of State of the
37 suspension and the court shall take physical custody of the person's license. The
38 Secretary of State may not reinstate the person's driver's license or permit or privilege to
39 operate a motor vehicle or right to apply for or obtain a license unless the person
40 demonstrates that, after having been released and discharged from any period of
41 incarceration that may have been ordered, the person has served the period of suspension
42 ordered by the court.

1 **4. Repeal.** This section is repealed June 15, 2013.

2 **§2394. Aggravated furnishing of certain synthetic hallucinogenic drugs**

3 **1. Aggravated furnishing.** A person is guilty of aggravated furnishing of certain
4 synthetic hallucinogenic drugs if the person violates section 2393 and:

5 A. The person furnishes a certain synthetic hallucinogenic drug to a child who is in
6 fact less than 18 years of age;

7 B. At the time of the offense, the person has one or more prior adjudications for any
8 violation under this chapter or for engaging in substantially similar conduct in
9 another jurisdiction;

10 C. At the time of the offense, the person possesses a firearm in the furtherance of the
11 offense, uses a firearm, carries a firearm or is armed with a firearm;

12 D. At the time of the offense, the person is on a school bus or within 1,000 feet of the
13 real property comprising a private or public elementary or secondary school or a safe
14 zone as defined in Title 17-A, section 1101, subsection 23. For purposes of this
15 paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301,
16 subsection 5; or

17 E. At the time of the offense, the person enlists or solicits the aid of or conspires with
18 a child who is in fact less than 18 years of age to furnish a certain synthetic
19 hallucinogenic drug.

20 **2. Penalty.** Violation of this section is a Class D crime.

21 **3. Use of a motor vehicle.** If a person uses a motor vehicle to facilitate the
22 aggravated furnishing of a certain synthetic hallucinogenic drug, the court may, in
23 addition to other authorized penalties, suspend the person's driver's license or permit or
24 privilege to operate a motor vehicle or right to apply for or obtain a license for a period
25 not to exceed 5 years. A suspension may not begin until after any period of incarceration
26 is served. If the court suspends a person's driver's license or permit or privilege to operate
27 a motor vehicle or right to apply for or obtain a license, the court shall notify the
28 Secretary of State of the suspension and the court shall take physical custody of the
29 person's license or permit. The Secretary of State may not reinstate the person's driver's
30 license or permit or privilege to operate a motor vehicle or right to apply for or obtain a
31 license unless the person demonstrates that, after having been released and discharged
32 from any period of incarceration that may have been ordered, the person has served the
33 period of suspension ordered by the court.

34 **4. Repeal.** This section is repealed June 15, 2013.

35 **Sec. 2. Maine Revised Statutes headnote amended; revision clause.** In the
36 Maine Revised Statutes, Title 22, chapter 558, in the chapter headnote, the words
37 "marijuana, scheduled drugs, imitation scheduled drugs and hypodermic apparatuses" are
38 amended to read "marijuana, scheduled drugs, imitation scheduled drugs, certain
39 synthetic hallucinogenic drugs and hypodermic apparatuses" and the Revisor of Statutes
40 shall implement this revision when updating, publishing or republishing the statutes.'

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SUMMARY

This amendment reallocates the restriction on the use, trafficking or possession of so-called bath salts proposed in Committee Amendment "A" from the Maine Criminal Code to the Maine Revised Statutes, Title 22 and changes some of the penalties to civil violations and reduces other criminal penalties.

SPONSORED BY: _____

(Representative WEBSTER)

TOWN: Freeport