

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
S.P. 451 - L.D. 1246

**An Act To Strengthen Laws Regarding the Manufacture and Sale of
Methamphetamine and Other Drugs**

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

Sec. 1. 17-A MRSA §1101, sub-§17, as amended by PL 1999, c. 374, §1 and c. 453, §§1 to 3, is further amended to read:

17. "Traffick":

- A. To make, create, manufacture;
- B. To grow or cultivate, except for marijuana;
- C. To sell, barter, trade, exchange or otherwise furnish for consideration;
- D. To possess with the intent to do any act mentioned in paragraph C; ~~or~~
- E. To possess 2 grams or more of heroin or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin; or
- F. To possess 2 grams or more of fentanyl powder or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder.

Sec. 2. 17-A MRSA §1101, sub-§18, as amended by PL 1999, c. 453, §§4 and 5, is further amended to read:

18. "Furnish":

- A. To furnish, give, dispense, administer, prescribe, deliver or otherwise transfer to another;
- B. To possess with the intent to do any act mentioned in paragraph A; ~~or~~
- C. To possess at least one gram 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

D. To possess at least one gram 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 §1101, sub-§24 is enacted to read:

24. "Fentanyl powder" means any compound, mixture or preparation, in granular or powder form, containing fentanyl.

Sec. 4. 17-A MRSA §1103, sub-§3, ¶H, as enacted by PL 2001, c. 419, §13, is amended to read:

H. ~~Thirty~~ Fourteen grams or more of or 30 or more pills, capsules, tablets or units containing 3, 4 - methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O or P.

Sec. 5. 17-A MRSA §1105-E is enacted to read:

§1105-E. Aggravated unlawful operation of a methamphetamine laboratory

1. A person is guilty of aggravated unlawful operation of a methamphetamine laboratory if the person violates section 1124 and:

A. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction. Violation of this paragraph is a Class A crime.

Section 9-A governs the use of prior convictions when determining a sentence under this paragraph, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years;

B. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm. Violation of this paragraph is a Class A crime;

C. At the time of the offense, the person is within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23. Violation of this paragraph is a Class A crime;

D. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to operate a methamphetamine laboratory. Violation of this paragraph is a Class A crime;

E. Death or serious bodily injury is in fact caused by the methamphetamine laboratory. Violation of this paragraph is a Class A crime; or

F. At the time of the offense, the premises is the residence of a child who is in fact less than 18 years of age, the premises is a multi-unit residential building or the premises is a room offered to the public for overnight accommodations. Violation of this paragraph is a Class A crime.

Sec. 6. 17-A MRSA §1107-A, sub-§1, ¶B, as amended by PL 2007, c. 476, §43, is further amended to read:

B. A schedule W drug that contains:

- (1) Heroin (diacetylmorphine);
- (2) Cocaine in the form of cocaine base and at the time of the offense the person has one or more prior convictions for any offense under this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction. For the purposes of this paragraph, a person has been convicted of an offense on the date the judgment of conviction was entered by the court;
- (3) Methamphetamine;
- (4) Oxycodone;
- (5) Hydrocodone; ~~or~~
- (6) Hydromorphone-;
- (7) Fentanyl powder;
- (8) Cocaine and the quantity possessed is 7 grams or more; or
- (9) Cocaine in the form of cocaine base and the quantity possessed is 2 grams or more.

Violation of this paragraph is a Class C crime;

Sec. 7. 17-A MRSA §1124 is enacted to read:

§1124. Unlawful operation of a methamphetamine laboratory

1. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Methamphetamine catalyst" means any substance that has been used, is being used or is intended to be used to activate, accelerate, extend or improve a chemical reaction involved in the manufacture of methamphetamine.

B. "Methamphetamine precursor" means any substance that can be directly or indirectly transformed into methamphetamine by means of chemical synthesis, including, but not limited to, ephedrine, pseudoephedrine, benzyl methyl ketone, phenylacetone, phenylacetic acid, phenyl-2-propanone (P2P) or any salt, isomer or salt of isomers of these chemicals.

C. "Methamphetamine reagent" means any substance other than a methamphetamine catalyst that has been used, is being used or is intended to be used to react with and chemically alter any methamphetamine precursor.

D. "Methamphetamine solvent" means any substance that has been used, is being used or is intended to be used as a medium in which any methamphetamine precursor, methamphetamine catalyst, methamphetamine reagent or any substance

containing any of the foregoing is dissolved, diluted or washed during any part of the methamphetamine manufacturing process.

2. A person is guilty of unlawful operation of a methamphetamine laboratory if that person intentionally or knowingly produces, prepares, compounds, converts or processes any methamphetamine precursor, methamphetamine catalyst, methamphetamine reagent or methamphetamine solvent with the intent that methamphetamine be produced.

It is not a defense that the chemical reaction is not complete or that no scheduled drug was in fact created.

Violation of this subsection is a Class B crime.

3. If a person uses a motor vehicle to facilitate the unlawful operation of a methamphetamine laboratory, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

Sec. 8. 17-A MRSA §1322, sub-§3, ¶C-2, as enacted by PL 1993, c. 305, §1, is amended to read:

C-2. "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, including a response to a suspected unlawful methamphetamine laboratory under section 1124, but only includes those costs directly arising because of the response to the particular incident. Reasonable costs include the costs of providing police, firefighting, rescue and emergency medical services at the scene of the incident, as well as the compensation for the personnel, including trained laboratory personnel, responding to the incident. "Public agency" means the State or any county, municipality, district or public authority located, in whole or in part, within this State that provides or may provide laboratory services or police, firefighting, ambulance or other emergency services.

Sec. 9. Appropriations and allocations. The following appropriations and allocations are made.

INDIGENT LEGAL SERVICES, MAINE COMMISSION ON

Maine Commission on Indigent Legal Services Z112

Initiative: Provides funds for an anticipated increase in indigent legal services.

GENERAL FUND	2015-16	2016-17
All Other	\$18,000	\$18,000
GENERAL FUND TOTAL	<u>\$18,000</u>	<u>\$18,000</u>