

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND ELEVEN

—
H.P. 1147 - L.D. 1562

An Act To Prohibit the Sale or Possession of So-called Bath Salts Containing Dangerous Synthetic Drugs

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain synthetic hallucinogenic drugs marketed as bath salts are powerful stimulant drugs that are suspected to have been designed to avoid prosecution and are commonly available on the Internet; and

Whereas, there exists a perception that these so-called bath salts pose a safer alternative to other drugs that are illegal but use of these bath salts is known to produce a number of severe side effects, including organ failure, and death; and

Whereas, prohibiting the use and possession of these so-called bath salts is an urgent public safety matter; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

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 - methylenedioxymethcathinone, MDMC;
- B. 3, 4 - methylenedioxypropylvalerone, MDPV;
- C. 4 - methylmethcathinone, 4-MMC;

D. 4 - methoxymethcathinone, bk-PMMA, PMMC;

E. 3 - fluoromethcathinone, FMC;

F. 4 - fluoromethcathinone, FMC;

G. Naphthylpyrovalerone, NRG-1; and

H. Beta-keto-N-methylbenzodioxolylpropylamine.

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.

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

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 This section is repealed June 15, 2013.

§2391. Unlawful trafficking in certain synthetic hallucinogenic drugs

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

2. Penalties. The following penalties apply.

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

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

3. Use of a motor vehicle. If a person uses a motor vehicle to facilitate the trafficking in a certain synthetic hallucinogenic drug listed in section 2390, 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.

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

§2392. Aggravated trafficking in certain synthetic hallucinogenic drugs

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

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

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

C. 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;

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

E. 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 traffick in a certain synthetic hallucinogenic drug.

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

3. Use of a motor vehicle. If a person uses a motor vehicle to facilitate the aggravated trafficking in a certain synthetic hallucinogenic drug, 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 or 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.

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

§2393. Unlawfully furnishing certain synthetic hallucinogenic drugs

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

2. Penalties. The following penalties apply.

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

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

3. Use of a motor vehicle. If a person uses a motor vehicle to facilitate the unlawful furnishing of a certain synthetic hallucinogenic drug, 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 or 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. 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.

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

§2394. Aggravated furnishing of certain synthetic hallucinogenic drugs

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

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

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

C. 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;

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

E. 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 furnish a certain synthetic hallucinogenic drug.

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

3. Use of a motor vehicle. If a person uses a motor vehicle to facilitate the aggravated furnishing of a certain synthetic hallucinogenic drug, 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 or 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.

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

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

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

In House of Representatives, 2011

Read twice and passed to be enacted.

..... Speaker

In Senate, 2011

Read twice and passed to be enacted.

..... President

Approved 2011

..... Governor