

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND SIXTEEN

S.P. 609 - L.D. 1554

An Act To Resolve Inconsistencies in the Drug Laws

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

**Sec. 1. 17-A MRSA §1101, sub-§18, ¶C**, as amended by PL 2015, c. 346, §2, is further amended to read:

C. To possess ~~at least one gram~~ more than 200 milligrams 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

**Sec. 2. 17-A MRSA §1101, sub-§18, ¶D**, as enacted by PL 2015, c. 346, §2, is amended to read:

D. To possess ~~at least one gram~~ more than 200 milligrams 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 §1106, sub-§3, ¶B**, as amended by PL 1999, c. 531, Pt. I, §6, is further amended to read:

B. ~~Seven~~ More than 2 grams ~~or more~~ of cocaine or 2 grams or more of cocaine in the form of cocaine base;

**Sec. 4. 17-A MRSA §1106, sub-§3, ¶E**, as amended by PL 2001, c. 419, §17, is further amended to read:

E. ~~Seven grams or more~~ More than 200 milligrams of methamphetamine;

**Sec. 5. 17-A MRSA §1106, sub-§3, ¶¶F and G**, as enacted by PL 2001, c. 419, §18, are amended to read:

F. ~~Forty five or more~~ Any quantity of pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin that, in the aggregate, contains more than 200 milligrams of the narcotic drug;

G. Any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains ~~not less than 400~~ more than 200 milligrams of oxycodone or ~~not less than 50~~ more than 200 milligrams of hydromorphone; or

**Sec. 6. 17-A MRSA §1107-A, sub-§1, ¶B**, as amended by PL 2015, c. 308, §2 and c. 346, §6, is repealed and the following enacted in its place:

B. Except as provided in paragraph B-1, a schedule W drug and the drug contains:

- (1) Heroin (diacetylmorphine) and the amount possessed is more than 200 milligrams;
- (2) Cocaine and the amount possessed is more than 2 grams;
- (3) Cocaine in the form of cocaine base and the amount possessed is more than 2 grams;
- (4) Oxycodone and the amount possessed is more than 200 milligrams;
- (5) Hydrocodone and the amount possessed is more than 200 milligrams;
- (6) Hydromorphone and the amount possessed is more than 200 milligrams;
- (7) Methamphetamine and the amount possessed is more than 200 milligrams; or
- (8) Fentanyl powder and the amount possessed is more than 200 milligrams.

Violation of this paragraph is a Class C crime;

**Sec. 7. 17-A MRSA §1107-A, sub-§1, ¶B-1** is enacted to read:

B-1. A schedule W drug and that drug contains any of the following and at the time of the offense the person had one or more convictions for violating section 1103, 1105-A, 1105-C, 1105-E, 1106 or section 1124 or for engaging in substantially similar conduct in another jurisdiction:

- (1) Heroin (diacetylmorphine);
- (2) Cocaine;
- (3) Cocaine in the form of cocaine base;
- (4) Oxycodone;
- (5) Hydrocodone;
- (6) Hydromorphone;
- (7) Methamphetamine; or
- (8) Fentanyl powder.

Violation of this paragraph is a Class C crime;

**Sec. 8. 17-A MRSA §1107-A, sub-§1, ¶C**, as enacted by PL 2001, c. 383, §127 and affected by §156, is amended to read:

C. A schedule W drug, except as provided in paragraphs A and B and B-1. Violation of this paragraph is a Class D crime;

**Sec. 9. 17-A MRSA §1107-A, sub-§4**, as amended by PL 2011, c. 464, §19, is further amended to read:

**4.** It is an affirmative defense to prosecution under subsection 1, paragraph B, subparagraphs ~~(3)~~ (4) to (6); subsection 1, paragraph B-1, subparagraphs (4) to (6); and paragraphs C to F that the person possessed a valid prescription for the scheduled drug or controlled substance that is the basis for the charge and that, at all times, the person intended the drug to be used only for legitimate medical use in conformity with the instructions provided by the prescriber and dispenser.

**Sec. 10. 17-A MRSA §1348-A, sub-§5** is enacted to read:

**5.** A deferred disposition is a preferred disposition in a prosecution for possession of schedule W drugs under section 1107-A, subsection 1, paragraphs B and B-1.