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Statement in Opposition to LD 1675, An Act To Amend Certain Provisions of Maine's Drug Laws

May 17, 2021

Maine law has for many years has included a presumption that if a person possesses more than a defined quantity of specified illegal drugs that person intends to sell or traffic in those drugs. The reason for this presumption is that it can be very difficult, and in many cases impossible, to prove beyond a reasonable doubt what the intention is of the person possessing the drugs.

Persons knowing what those defined quantities are can avoid prosecution for trafficking by not possessing more than such quantities. This invariably leads to some traffickers avoiding prosecution; however, that is perhaps a reasonable trade-off in order to avoid stiffer penalties for persons who truly possess drugs only for their own use.

L.D. 1675 would institute a very different trade-off, which is that persons with unlimited quantities of the drugs specified in the bill can avoid prosecution for trafficking unless their intent can be proven. A trunkload of fentanyl will no longer suffice as evidence of intent to sell. While this may eliminate stiffer penalties for some persons who possess only for their own use, but we believe it is likely that a far greater number of cases of actual trafficking will go unpunished for more than mere possession. For trafficking gangs or syndicates, this may simply become a price of doing business they are willing to pay, and the flow of drugs will continue unabated.

We note that members of the committee inquired about data on drug prosecutions, including cases based on quantities possessed, deferred case dispositions, re-arrests and so forth. We believe these are important questions that should be answered before moving forward with this bill. MCOPA will assist in whatever way we can in providing responses to these questions, some of which may take some time and effort.