

**TITLE 17-A
CRIMES
CHAPTER 45
DRUGS**

§1101. Definitions

As used in this Title, the following words shall, unless the context clearly requires otherwise, have the following meanings.

1. "Marijuana" includes the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not; but does not include the resin extracted from any part of such plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin including hashish and does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, fiber, oil or cake or the sterilized seed of such plant that is incapable of germination. "Marijuana" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

2. "Hypodermic apparatus," hypodermic syringe, hypodermic needle or any instrument designed or adapted for the administration of any drug by injection.

3. "Isomer," the optical isomer, except wherever appropriate, the optical, position or geometric isomer.

4. "Manufacture," to produce, prepare, propagate, compound, convert or process, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis.

4-A. "Methamphetamine precursor drug" means any drug or product possessed by a person that contains in the aggregate a quantity of more than 9 grams of ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, in dry or solid nonliquid form.

5. "Hashish" includes the resin extracted from any part of the cannabis plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin. "Hashish" does not include the resin extracted from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.

6. "Narcotic drug," any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

A. Opium and any opiate, and any salt, compound, derivative or preparation of opium or opiate;

B. Any salt, compound, isomer, ester, ether, derivative or preparation thereof which is chemically equivalent or identical to or with any of the substances referred to in paragraph A, but not including the isoquinoline alkaloids of opium; or

C. Opium poppy and poppy straw.

7. "Opiate."

A. Any substance having an analgesic and addiction forming or addiction sustaining property or liability similar to morphine or capable of conversion into a drug having such analgesic and addiction forming or addiction sustaining property or liability.

B. This term does not include, unless specifically designated or listed in Schedule W, X, Y or Z, the dextrorotatory isomer or 3-methoxy-n-methyl-morphinan and its salts, dextromethorphan, but does include its racemic and levorotatory forms.

8. "Opium poppy," the plant of the species *Papaver somniferum* L., except its seeds.

9. "Poppy straw," all parts, except the seeds, of the opium poppy, after mowing.

10. "Prescription drug" means a drug which:

A. Under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(1) "Caution: Federal law prohibits dispensing without prescription."; or

(2) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

B. Is required by an applicable federal or state law or rule to be dispensed on prescription only or is restricted to use by practitioners only.

11. "Scheduled drug," any drug named or described in section 1102, schedule W, X, Y or Z.

12. "Schedule W drug," any drug named, listed or described in section 1102, schedule W.

13. "Schedule X drug," any drug named, listed or described in section 1102, schedule X.

14. "Schedule Y drug," any drug named, listed or described in section 1102, schedule Y.
15. "Schedule Z drug," any drug named, listed or described in section 1102, schedule Z.
16. "State laboratory," a laboratory of any state agency which is capable of performing any or all of the analyses that may be required to establish that a substance is a scheduled or a counterfeit drug, including, but not limited to, the laboratory of the State Department of Health and Human Services and any such laboratory that may be established within the Department of Public Safety.
- 16-A.**
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;
 - 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.
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;
 - C. To possess 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
 - D. To possess 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.
19. "Imitation scheduled drug," a substance that is not a scheduled drug and which was not obtained by valid medical prescription, but which, by dosage unit appearance or by representations made, would lead a reasonable person to believe that the substance was a scheduled drug.
20. "Dosage unit," that unit of measurement which is equivalent to an average adult dose.
21. "Cultivate" means to sow a seed; to grow, raise or tend a plant; to harvest a plant; or to knowingly possess a plant.
- 22.
- 22-A.** "Hemp" has the same meaning as in Title 7, section 2231, subsection 1-A, paragraph D.
23. "Safe zone" means an athletic field, park, playground or recreational facility that is designated as a safe zone by a municipality pursuant to Title 30-A, section 3253.
24. "Fentanyl powder" means any compound, mixture or preparation, in granular or powder form, containing fentanyl or any derivative of fentanyl listed in section 1102, subsection 1, paragraph I in any quantity.
- 25. Cocaine.** "Cocaine" means:
- A. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine and their salts have been removed; or
 - B. A mixture or preparation that contains any quantity of any of the following substances:
 - (1) Cocaine, its salts, optical and geometric isomers and salts of isomers;
 - (2) Ecgonine, its derivatives, their salts, isomers and salts of isomers; or
 - (3) Cocaine base, which is the alkaloid form of cocaine.
26. **Heroin.** "Heroin" means any compound, mixture or preparation containing heroin (diacetylmorphine) in any quantity.

§1102. Schedules W, X, Y and Z

For the purposes of defining crimes under this chapter and of determining the penalties therefor, there are hereby established the following schedules, designated W, X, Y and Z.

1. Schedule W:

A. Unless listed or described in another schedule, any amphetamine, or its salts, isomers, or salts of isomers, including but not limited to methamphetamine, or its salts, isomers, or salts of isomers;

B. Unless listed or described in another schedule, or unless made a nonprescription drug by federal law, barbituric acid or any derivative of barbituric acid, or any salt of barbituric acid or of a derivative of barbituric acid, including but not limited to amobarbital, butabarbital, pentobarbital, secobarbital, thiopental, and methohexital;

C.

D.

E.

F. Cocaine;

G. Phenmetrazine and its salts;

H. Methylphenidate or its salts;

I. Unless listed or described in another schedule, any compound, mixture or preparation containing narcotic drugs in any quantity, including, but not limited to, the following narcotic drugs or their salts, isomers or salts of isomers: heroin (diacetylmorphine); methadone; methadone hydrochloride; levo-alpha-acetyl-methadol, or LAAM; pethidine; opium; morphine; oxycodone; hydrocodone; hydromorphone; buprenorphine; U-47700; W-18; W-15; AH-7921; carfentanil; sufentanil; fentanyl powder; and any derivative of fentanyl powder by any substitution on or replacement of the phenethyl group, any substitution on the piperidine ring, any substitution on or replacement of the propanamide group, any substitution on the phenyl group or any combination thereof, including, but not limited to, despropionyl fentanyl, furanylfentanyl, fluorofentanyl, 4-fluoroisobutyryl fentanyl, acetylfentanyl and any methylfentanyl derivatives;

J. Phencyclidine;

K. Lysergic acid diethylamide, and its salts, isomers and salts of isomers;

L. Lysergic acid;

M. Lysergic acid amide;

N. Flunitrazepam or its chemical equivalent;

O. Unless listed or described in another schedule, the following hallucinogenic drugs or their salts, isomers and salts of isomers whenever the existence of the salts, isomers and salts of isomers is possible within the chemical designation:

- (1) 3, 4 - methylenedioxy amphetamine, MDA;
- (2) 5 methoxy - 3, 4 methylenedioxy amphetamine, MMDA;
- (3) 3, 4, 5 - trimethoxy amphetamine, TMA;
- (4) 4 - methyl - 2, 5 - dimethoxyamphetamine, DOM;
- (5) 2, - 3 methylenedioxyamphetamine;
- (6) 2, 5 - dimethoxyamphetamine, DMA;
- (7) 4 - bromo - 2, 5 - dimethoxyamphetamine, DOB;
- (8) 4 methoxyamphetamine;
- (9) 3, 4 - methylenedioxymethamphetamine, MDMA;
- (10) 4 - bromo - 2, 5 - dimethoxyphenethylamine, NEXUS;
- (11) 3, 4 - methylenedioxy-N-ethylamphetamine, MDE;
- (12) Paramethoxymethamphetamine, PMMA;
- (13) Paramethoxyamphetamine, PMA; and
- (14) Paramethoxyethylamphetamine, PMEA ; and

P. Unless listed or described in another schedule, the following synthetic hallucinogenic drugs:

Office of Policy and Legal Analysis draft

- (1) 3, 4 - methylenedioxy methcathinone, MDMC;
- (2) 3, 4 - methylenedioxy pyrovalerone, MDPV;
- (3) 4 - methylmethcathinone, 4-MMC;
- (4) 4 - methoxymethcathinone, bk-PMMA, PMMC;
- (5) 3 - fluoromethcathinone, FMC;
- (6) 4 - fluoromethcathinone, FMC;
- (7) Napthylpyrovalerone, NRG-1;
- (8) Beta-keto-N-methylbenzodioxolylpropylamine;
- (9) 4 - methylethcathinone, 4-MEC;
- (10) Butylone;
- (11) Eutylone;
- (12) Pentedrone;
- (13) Pentylone;
- (14) 2, 5 - dimethoxy-4-ethylphenethylamine; or
- (15) A derivative of cathinone, including any compound, material, mixture, preparation or other product, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
 - (a) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
 - (b) By substitution at the 3-position with an acyclic alkyl substituent; or
 - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

This subparagraph does not include a drug listed in section 1102 or a drug approved by the United States Food and Drug Administration.

2. Schedule X:

A. Unless listed or described in another schedule, any of the following drugs having depressant effect on the central nervous system

- (1) Chlorhexadol
- (2) Sulfondiethylmethane
- (3) Sulfonethylmethane
- (4) Sulfonmethane

B. Nalorphine;

C. Unless listed in another schedule, any of the following hallucinogenic drugs, or their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation

- (1) Bufotenine
- (2) Ibogaine
- (3) Mescaline, including but not limited to peyote
- (4) N-methyl-3-piperidyl benzilate
- (5) N-ethyl-3-piperidyl benzilate
- (6) Psilocybin
- (7) Psilocyn
- (8) Hashish;

- E. Methaqualone or its salts;
 - F. Methprylon;
 - G. Glutethimide.
 - H. Unless listed or described in another schedule, the following hallucinogenic drugs or their salts, isomers and salts of isomers whenever the existence of the salts, isomers and salts of isomers is possible within the specific chemical designation:
 - (5) Diethyltryptamine, DET;
 - (6) Dimethyltryptamine, DMT;
 - (7) Dipropyltryptamine, DPT; and
 - (12) Alpha-ethyltryptamine, AET.
 - K. Diethylpropion or its salts;
 - L. Gamma hydroxybutyrate, GHB, and its salts, isomers and salts of isomers;
 - M. Ketamine and its salts, isomers and salts of isomers; and
 - N. The following substances, if intended for human ingestion:
 - (1) Gamma butyrolactone, GBL, and its salts, isomers and salts of isomers; or
 - (2) One, 4-butanediol, BD, and its salts, isomers and salts of isomers.
- 3. Schedule Y:**
- A. Barbital or its salts;
 - B. Chloral betaine;
 - C. Ethchlorvynol;
 - D. Ethinamate;
 - E. Methohexital or its salts;
 - F. Methylphenobarbital or its salts;
 - G. Paraldehyde;
 - H. Petrichloral;
 - I. Phenobarbital or its salts;
 - J. Codeine (methyldormine) or its salts;
 - K. Any compound, mixture or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredient in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone
 - (1) not more than 2.5 milligrams of diphenoxylate with not less than 25 micrograms of atropin sulfate per dosage unit;
 - L. Meprobamate;
 - M. Ergot or any salt, compound or derivative of ergot unless listed in another schedule;
 - N. Flurazepam or its salts;
 - O. Chlordiazepoxide or its salts;
 - P. Diazepam;
 - Q. Carbromal;
 - R. Chloralhydrate;
 - S. Fenfluramine or its salts;
 - U. Phentermine or its salts.

4. Schedule Z:

Office of Policy and Legal Analysis draft

- A. All prescription drugs other than those included in schedules W, X or Y;
- B. Marijuana;
- C. All nonprescription drugs other than those included in schedules W, X or Y as the Maine Board of Pharmacy shall duly designate;
- D. Butyl nitrite or isobutyl nitrite;
- E. A methamphetamine precursor drug; and
- G. Synthetic cannabinoids, including:
 - (1) Tetrahydrocannabinols that are naturally contained in a plant of the genus cannabis or a cannabis plant, excluding tetrahydrocannabinols contained in hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D, as well as synthetic equivalents of the substances contained in the cannabis plant or in the resinous extracts of cannabis or synthetic substances, derivatives and their isomers with similar chemical structure and pharmacological activity, including the following:
 - (a) Delta-1 cis or trans tetrahydrocannabinol and their optical isomers;
 - (b) Delta-6 cis or trans tetrahydrocannabinol and their optical isomers; or
 - (c) Delta-3,4 cis or trans tetrahydrocannabinol and their optical isomers;
 - (2) Naphthoylindoles, including any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including the following:
 - (a) 1-Pentyl-3-(1-naphthoyl)indole or JWH-018 or AM-678;
 - (b) 1-Butyl-3-(1-naphthoyl)indole or JWH-073;
 - (c) 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole or JWH-081;
 - (d) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole or JWH-200;
 - (e) 1-Propyl-2-methyl-3-(1-naphthoyl)indole or JWH-015;
 - (f) 1-Hexyl-3-(1-naphthoyl)indole or JWH-019;
 - (g) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole or JWH-122;
 - (h) 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole or JWH-210;
 - (i) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole or JWH-398; or
 - (j) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole or AM-2201;
 - (3) Naphthylmethylindoles, including any compound containing a H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including the following:
 - (a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane or JWH-175; or
 - (b) 1-Pentyl-1H-3-yl-(4-methyl-1-naphthyl)methane or JWH-184;
 - (4) Naphthoylpyrroles, including any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone or JWH-307;
 - (5) Naphthylideneindenes or naphthylmethylindenes, including any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent, including E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane or JWH-176;

(6) Phenylacetylindoles, including any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including the following:

- (a) 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole or RCS-8;
- (b) 1-Pentyl-3-(2-methoxyphenylacetyl)indole or JWH-250;
- (c) 1-Pentyl-3-(2-methylphenylacetyl)indole or JWH-251; or
- (d) 1-Pentyl-3-(2-chlorophenylacetyl)indole, or JWH-203;

(7) Cyclohexylphenols, including any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent, and their isomers with similar chemical structure and pharmacological activity, including the following:

- (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol or CP 47,497;
- (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol or Cannabicyclohexanol or CP 47,497-C8 homologue; or
- (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol or CP 55,490;

(8) Benzoylindoles, including any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including the following:

- (a) 1-Pentyl-3-(4-methoxybenzoyl)indole or RCS-4;
- (b) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole or AM-694; or
- (c) (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone or WIN-48,098 or Pravadoline; and

(9) The following other unclassified synthetic cannabinoids:

- (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol or HU-210;
- (b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol or Dexanabinol or HU-211;
- (c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl-1-naphthalenylmethanone or WIN 55,212-2; or
- (d) (1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone or XLR-11.

§1103. Unlawful trafficking in scheduled drugs

1-A. Except as provided in subsection 1-B, a person is guilty of unlawful trafficking in a scheduled drug if the person intentionally or knowingly trafficks in what the person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

- A. A schedule W drug. Violation of this paragraph is a CLASS B crime;
- B. A schedule X drug. Violation of this paragraph is a Class C crime;
- C. Marijuana in a quantity of 20 pounds or more. Violation of this paragraph is a CLASS B crime;
- D. Marijuana and the person grows or cultivates 500 or more plants. Violation of this paragraph is a CLASS B crime;
- E. Marijuana in a quantity of more than one pound. Violation of this paragraph is a Class C crime;
- F. Marijuana and the person grows or cultivates 100 or more plants. Violation of this paragraph is a Class C crime;
- G. A schedule Y drug. Violation of this paragraph is a Class D crime; or
- H. A schedule Z drug. Violation of this paragraph is a Class D crime.

1-B. A person is not guilty of unlawful trafficking in a scheduled drug if the conduct that constitutes the trafficking is either:

- A. Expressly authorized by Title 22, Title 28-B or Title 32; or
- B. Expressly made a civil violation by Title 22 or Title 28-B.

3. Proof that the person intentionally or knowingly possesses any scheduled drug that is in fact of a quantity, state or concentration as provided in this subsection, gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person is unlawfully trafficking in scheduled drugs:

- A. More than one pound of marijuana;
- B. Fourteen grams or more of cocaine or 4 grams or more of cocaine in the form of cocaine base;
- D. Lysergic acid diethylamide in any of the following quantities, states or concentrations:
 - (1) Any compound, mixture, substance or solution in a liquid state that contains a detectable quantity of lysergic acid diethylamide;
 - (2) Fifty or more squares, stamps, tablets or units of any compound, mixture or substance containing a detectable quantity of lysergic acid diethylamide; or
 - (3) Any quantity of any compound, mixture or substance that, in the aggregate, contains 2,500 micrograms or more of lysergic acid diethylamide;
- E. Fourteen grams or more of methamphetamine;
- F. Ninety or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin;
- G. Any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 800 milligrams or more of oxycodone or 100 milligrams or more of hydromorphone; or
- H. Fourteen grams or more of or 30 or more pills, capsules, tablets or units containing 3, 4 - methylenedioxyamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O or P.

6. If a person uses a motor vehicle to facilitate the trafficking of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license, permit, 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, 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. The Secretary of State may not reinstate the person's driver's license, permit, 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.

- 7.** It is an affirmative defense to prosecution under this section that the substance trafficked in is hemp.

§1105-A. Aggravated trafficking of scheduled drugs

1. A person is guilty of aggravated trafficking in a scheduled drug if the person violates section 1103 and:

- A. The person trafficks in a scheduled drug with a child who is in fact less than 18 years of age and the drug is:
 - (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
 - (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
 - (3) A schedule X drug. Violation of this subparagraph is a CLASS B crime;
 - (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a CLASS B crime;
 - (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
 - (6) A schedule Z drug. Violation of this subparagraph is a Class C crime;

- B. 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 and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
- (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
- (3) A schedule X drug. Violation of this subparagraph is a CLASS B crime;
- (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a CLASS B crime;
- (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (6) A schedule Z drug. Violation of this subparagraph is a Class C crime.

Section 9-A governs the use of prior convictions when determining a sentence, 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;

C-1. 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, and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
- (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
- (3) A schedule X drug. Violation of this subparagraph is a CLASS B crime;
- (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a CLASS B crime;
- (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (6) A schedule Z drug. Violation of this subparagraph is a Class C crime;

D. At the time of the offense, the person trafficks in cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. Violation of this paragraph is a Class A crime;

E. 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 section 1101, subsection 23 and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
- (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
- (3) A schedule X drug. Violation of this subparagraph is a CLASS B crime;
- (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a CLASS B crime;
- (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (6) A schedule Z drug. Violation of this subparagraph is a Class C crime.

For purposes of this paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301, subsection 5;

F. 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 scheduled drug and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a Class A crime;
- (2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;
- (3) A schedule X drug. Violation of this subparagraph is a CLASS B crime;
- (4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a CLASS B crime;
- (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (6) A schedule Z drug. Violation of this subparagraph is a Class C crime;

G. At the time of the offense, the person trafficks in methamphetamine or amphetamine in a quantity of 300 or more pills, capsules, tablets or units or 100 grams or more. Violation of this paragraph is a Class A crime;

H. At the time of the offense, the person trafficks in heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a Class A crime;

I. At the time of the offense, the person trafficks in 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or

substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a Class A crime;

J. At the time of the offense, the person trafficks in a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class A crime;

K. Death of another person is in fact caused by the use of one or more scheduled drugs, the scheduled drug trafficked by the defendant is a contributing factor to the death of the other person and that drug is a schedule W drug. A violation of this paragraph is a Class A crime;

L. Serious bodily injury of another person is in fact caused by the use of one or more scheduled drugs, the scheduled drug trafficked by the defendant is a contributing factor to the serious bodily injury of the other person and that drug is a schedule W drug. A violation of this paragraph is a CLASS B crime; or

M. At the time of the offense, the person trafficks in fentanyl powder in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder. A violation of this paragraph is a Class A crime.

2. If a person uses a motor vehicle to facilitate the aggravated trafficking in a scheduled 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, 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.

3. It is an affirmative defense to prosecution under this section that the substance trafficked in is hemp.

§1105-B. Aggravated trafficking or furnishing of counterfeit drugs

1. A person is guilty of aggravated trafficking in or furnishing a counterfeit drug if the person violates section 1104 and:

A. The person trafficks in a counterfeit drug with or furnishes a counterfeit drug to a child who is in fact under 18 years of age;

B. 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. Section 9-A governs the use of prior convictions when determining a sentence, 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;

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; or

D. Death or serious bodily injury of another person is in fact caused by the use of one or more drugs and the drug furnished by the defendant is a contributing factor to the death or serious bodily injury of the other person.

2. Aggravated trafficking in or furnishing a counterfeit drug is a CLASS B crime.

3. If a person uses a motor vehicle to facilitate the aggravated trafficking in or furnishing of a counterfeit drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit, 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, 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.

§1105-C. Aggravated furnishing of scheduled drugs

1. A person is guilty of aggravated furnishing of a scheduled drug if the person violates section 1106 and:

A. The person furnishes a scheduled drug to a child who is in fact less than 18 years of age and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a CLASS B crime;
- (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (4) A schedule Z drug. Violation of this subparagraph is a Class C crime;

B. 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 and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a CLASS B crime;
- (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (4) A schedule Z drug. Violation of this subparagraph is a Class C crime.

Section 9-A governs the use of prior convictions when determining a sentence, 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;

C.

C-1. 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, and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a CLASS B crime;
- (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (4) A schedule Z drug. Violation of this subparagraph is a Class C crime;

D. At the time of the offense, the person furnishes cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. Violation of this paragraph is a CLASS B crime;

E. 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 section 1101, subsection 23 and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a CLASS B crime;
- (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (4) A schedule Z drug. Violation of this subparagraph is a Class C crime.

For purposes of this paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301, subsection 5;

F. 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 scheduled drug and the drug is:

- (1) A schedule W drug. Violation of this subparagraph is a CLASS B crime;
- (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- (4) A schedule Z drug. Violation of this subparagraph is a Class C crime;

G. At the time of the offense, the person furnishes methamphetamine in a quantity of 100 grams or more. Violation of this paragraph is a CLASS B crime;

H. At the time of the offense, the person furnishes heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a CLASS B crime;

I. At the time of the offense, the person furnishes 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a CLASS B crime;

J. At the time of the offense, the person furnishes a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a CLASS B crime;

K. Death of another person is in fact caused by the use of one or more drugs and the drug furnished by the defendant is a contributing factor to the death of the other person. A violation of this paragraph is a CLASS B crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and that the death was not a reasonably foreseeable consequence of the use of that scheduled drug. In determining whether the death was reasonably foreseeable, the jury shall consider:

- (1) The factual circumstances surrounding the furnishing of the drug;
- (2) The total quantity of the drug furnished;
- (3) The dosage of the units furnished;
- (4) The nature of the drug;
- (5) The overdose risk presented by use of the drug; and
- (6) Any safety warnings provided to the defendant at the time of dispensing the drug; or

L. Serious bodily injury is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class C crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and that the serious bodily injury was not a reasonably foreseeable consequence of the use of that scheduled drug. In determining whether the serious bodily injury was reasonably foreseeable, the jury shall consider:

- (1) The factual circumstances surrounding the furnishing of the drug;
- (2) The total quantity of the drug furnished;
- (3) The dosage of the units furnished;
- (4) The nature of the drug;
- (5) The overdose risk presented by use of the drug; and
- (6) Any safety warnings provided to the defendant at the time of dispensing the drug.

2. If a person uses a motor vehicle to facilitate the aggravated furnishing of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit, 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, 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.

3. It is an affirmative defense to prosecution under this section that the substance furnished is hemp.

§1105-D. Aggravated cultivating of marijuana

1. A person is guilty of aggravated cultivating of marijuana if the person violates section 1117 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 and the person grows or cultivates:

- (1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;
- (2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a CLASS B crime;

- (3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or
- (4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime.

Section 9-A governs the use of prior convictions when determining a sentence, 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-1. 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, and the person grows or cultivates:

- (1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;
- (2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a CLASS B crime;
- (3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or
- (4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime;

C. 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 cultivate marijuana and the person grows or cultivates:

- (1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;
- (2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a CLASS B crime;
- (3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or
- (4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime; or

D. 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 and the person grows or cultivates:

- (1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;
- (2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a CLASS B crime;
- (3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or
- (4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime.

2. If a person uses a motor vehicle to facilitate the aggravated cultivating of marijuana, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit, 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, 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.

3. It is an affirmative defense to prosecution under this section that the substance cultivated or grown is hemp.

§1107-A. Unlawful possession of scheduled drugs

1. Except as provided in subsection 2, a person is guilty of unlawful possession of a scheduled drug if the person intentionally or knowingly possesses what that person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug and at the time of the offense the person had one or more convictions for violating this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction and the drug is:

- (1) Cocaine and the quantity possessed is more than 14 grams;
- (2) Cocaine in the form of cocaine base and the quantity possessed is more than 4 grams; or
- (3) Methamphetamine and the quantity possessed is more than 14 grams.

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

Violation of this paragraph is a CLASS B crime;

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;

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;

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

D. A schedule X drug. Violation of this paragraph is a Class D crime;

E. A schedule Y drug. Violation of this paragraph is a Class E crime; or

F. A schedule Z drug. Violation of this paragraph is a Class E crime unless the drug is marijuana, in which case a violation of this paragraph is:

- (1) For possession of over 2 1/2 ounces to 8 ounces of marijuana, a Class E crime;
- (2) For possession of over 8 ounces to 16 ounces of marijuana, a Class D crime;
- (3) For possession of over one pound to 20 pounds of marijuana, a Class C crime; and
- (4) For possession of over 20 pounds of marijuana, a CLASS B crime.

2. A person is not guilty of unlawful possession of a scheduled drug if the conduct that constitutes the possession is expressly:

A. Authorized by Title 22, Title 28-B or Title 32; or

B. Made a civil violation by Title 22 or Title 28-B.

3. It is an affirmative defense to prosecution under this section that:

A. The substance possessed is hemp; or

B. The substance possessed is a methamphetamine precursor drug and was possessed by the defendant for a legitimate medical purpose.

4. It is an affirmative defense to prosecution under subsection 1, paragraph B, subparagraphs (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.

5. It is an affirmative defense to prosecution under this section that the substance furnished is:

A. Hemp; or

B. A residual amount of any scheduled drug that is contained in one or more hypodermic apparatuses if the person is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is transporting the hypodermic apparatuses to the program.

§1117. Cultivating marijuana

1. Except as provided in subsection 4, a person is guilty of cultivating marijuana if:

A. The person intentionally or knowingly grows or cultivates marijuana. Violation of this paragraph is a Class E crime; or

B. The person violates paragraph A and the number of marijuana plants is:

(1) Five hundred or more. Violation of this subparagraph is a CLASS B crime;

(2) One hundred or more but fewer than 500. Violation of this subparagraph is a Class C crime;

(3) More than 5 but fewer than 100. Violation of this subparagraph is a Class D crime; or

(4) Five or fewer. Violation of this subparagraph is a Class E crime.

3. It is an affirmative defense to prosecution under this section that the substance cultivated or grown is hemp.

4. A person is not guilty of cultivating marijuana if the conduct is expressly authorized by Title 22, chapter 558-C or Title 28-B.

§1118. Illegal importation of scheduled drugs

1. A person is guilty of illegal importation of scheduled drugs if the person intentionally or knowingly brings, carries or transports a scheduled drug other than marijuana into the State from another state or country, unless the person is authorized to import or to possess the scheduled drug under Title 22 or Title 32 or under any law of the United States, of another state or of a foreign country.

2. A violation of this section is:

A. A CLASS B crime if the drug is a schedule W drug; and

B. A Class C crime if the drug is a schedule X, Y or Z drug.

§1118-A. Aggravated illegal importation of scheduled drugs

1. A person is guilty of aggravated illegal importation of a scheduled drug if the person violates section 1118 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 and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime; or

(2) A schedule X, Y or Z drug. Violation of this subparagraph is a CLASS B crime.

Section 9-A governs the use of prior convictions when determining a sentence, 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, and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime; or

(2) A schedule X, Y or Z drug. Violation of this subparagraph is a CLASS B crime;

C. At the time of the offense, the person illegally imports cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. 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 illegally import a scheduled drug and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime; or

(2) A schedule X, Y or Z drug. Violation of this subparagraph is a CLASS B crime;

E. At the time of the offense, the person illegally imports methamphetamine or amphetamine in a quantity of 300 or more pills, capsules, tablets or units or 100 grams or more. Violation of this paragraph is a Class A crime;

F. At the time of the offense, the person illegally imports heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a Class A crime;

G. At the time of the offense, the person illegally imports 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a Class A crime;

H. At the time of the offense, the person illegally imports a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class A crime; or

I. Death is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class A crime.

2. If a person uses a motor vehicle to facilitate the aggravated illegal importation of a scheduled 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, 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.

§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.

G:\COMMITTEES\JUD\BILL WORKING FILES\130th\LD 841\LD 841 - Class B Drug Crimes.docx (5/4/2021 07:47:00 AM)