

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

—
H.P. 1124 - L.D. 1745

**An Act to Support Public Health by Clarifying Authorized Activities
Regarding Drug Checking**

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

Whereas, the Distribution of Harm Reduction Access in Rural Maine Areas program, also known as Project DHARMA, is funded by federal grants and is ready for implementation except there are barriers of liability related to transportation and testing of drug samples and paraphernalia; and

Whereas, there is an urgent need for testing and drug checking due to increasingly dangerous substances in the drug supply; 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 §2383-B, sub-§2, ¶E, as amended by PL 2021, c. 434, §10, is further amended to read:

E. Physicians, dentists, podiatrists, pharmacists or other persons authorized by law or rule to administer, dispense, prescribe or sell scheduled or prescription drugs or controlled substances while acting within the course of their professional practice; ~~and~~

Sec. 2. 22 MRSA §2383-B, sub-§2, ¶G, as enacted by PL 2013, c. 266, §10, is amended to read:

G. Persons conducting research at a school of pharmacology that is accredited or is a candidate for accreditation in good standing; ~~and~~

Sec. 3. 22 MRSA §2383-B, sub-§2, ¶H is enacted to read:

H. Persons possessing, receiving, transporting or storing one or more drug samples contained in one or more sample collection instruments or drug paraphernalia for the

purpose of drug checking. Possessing, receiving, transporting or storing one or more drug samples in accordance with this paragraph does not constitute a crime under Title 17-A, sections 1103, 1104 and 1106.

Sec. 4. 22 MRSA §2383-B, sub-§3, ¶A-3 is enacted to read:

A-3. "Controlled substance analog" means a substance that has a substantially similar chemical structure to that of a controlled substance.

Sec. 5. 22 MRSA §2383-B, sub-§3, ¶A-4 is enacted to read:

A-4. "Drug checking" means the testing of a controlled substance, prescription drug or scheduled drug to determine its chemical composition or to assist in determining whether it contains contaminants, toxic substances or hazardous compounds.

Sec. 6. 22 MRSA §2383-B, sub-§3, ¶A-5 is enacted to read:

A-5. "Drug paraphernalia" has the same meaning as in Title 17-A, section 1111-A, subsection 1.

Sec. 7. 22 MRSA §2383-B, sub-§3, ¶A-6 is enacted to read:

A-6. "Drug sample" means a substance containing one or more scheduled or prescription drugs or controlled substances or controlled substance analogs in an amount insufficient to result in a person possessing the substance to be in violation of Title 17-A, section 1107-A.

Sec. 8. 22 MRSA §2383-B, sub-§3, ¶B-2 is enacted to read:

B-2. "Person" means any individual, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision or any other legal, commercial or informal entity or group.

Sec. 9. 22 MRSA §2383-B, sub-§3, ¶C-1 is enacted to read:

C-1. "Sample collection instrument" means an instrument used to collect a drug sample for purposes of drug checking.

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