

§1116. Trafficking or furnishing imitation scheduled drugs

1. Except as provided in subsection 1-A, a person is guilty of trafficking in or furnishing an imitation scheduled drug if the person intentionally or knowingly trafficks in or furnishes an imitation scheduled drug to a person who is:

A. At least 18 years of age. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §143 (NEW); PL 2001, c. 383, §156 (AFF).]

B. Less than 18 years of age and the person trafficking or furnishing the imitation scheduled drug is at least 18 years of age. Violation of this paragraph is a Class D crime. [PL 2001, c. 383, §143 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §143 (AMD); PL 2001, c. 383, §156 (AFF).]

1-A. A person is not guilty of trafficking in or furnishing an imitation scheduled drug if the conduct that constitutes the trafficking or furnishing is expressly made a civil violation by Title 22, section 2383-A.

[PL 2001, c. 383, §144 (NEW); PL 2001, c. 383, §156 (AFF).]

2. Proof that the person intentionally or knowingly possesses 100 or more tablets, capsules or other dosage units of an imitation scheduled drug gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person is trafficking in or furnishing imitation scheduled drugs.

[PL 2001, c. 383, §145 (AMD); PL 2001, c. 383, §156 (AFF).]

3.

[PL 2001, c. 383, §146 (RP); PL 2001, c. 383, §156 (AFF).]

4.

[PL 2001, c. 383, §146 (RP); PL 2001, c. 383, §156 (AFF).]

5. In determining whether the appearance of a dosage unit of an imitation scheduled drug would lead a reasonable person to believe the substance was a scheduled drug, as required by section 1101, subsection 19, the court shall consider, but is not limited to considering, the following:

A. In the case of a substance in tablet, capsule or other solid form, whether the size, shape and color are substantially similar to that of a specific scheduled drug, and in the case of a substance in powdered or liquid form, whether the color, consistency and appearance are substantially similar to that of a specific scheduled drug; [PL 1981, c. 603, §2 (NEW).]

B. Whether the markings on each dosage unit are substantially similar to those on a specific scheduled drug; and [PL 1981, c. 603, §2 (NEW).]

C. Whether the packaging of, or the labeling of a container containing the substance, bears markings or printed material substantially similar to that accompanying or containing a specific scheduled drug. [PL 1981, c. 603, §2 (NEW).]

[PL 1981, c. 603, §2 (NEW).]

6. This section does not apply to:

A. Law enforcement officers acting in the course and legitimate scope of their employment; [PL 1981, c. 603, §2 (NEW).]

B. Persons who manufacture, process, package, distribute or sell imitation scheduled drugs solely for or to licensed medical practitioners for use as placebos in the course of professional practice or research; and [PL 1981, c. 603, §2 (NEW).]

C. Licensed medical practitioners, pharmacists and other persons authorized to dispense or administer scheduled drugs who are acting in the legitimate performance of their professional licenses. [PL 1981, c. 603, §2 (NEW).]

[PL 2001, c. 383, §147 (AMD); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1981, c. 603, §2 (NEW). PL 2001, c. 383, §§143-147 (AMD). PL 2001, c. 383, §156 (AFF).

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