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In Senate, January 4, 2023

An Act to Clarify State Policy Regarding the Use of Cannabis Paraphernalia in the Maine Medical Use of Cannabis Act

(EMERGENCY)

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

DAREK M. GRANT Secretary of the Senate

Presented by Senator HICKMAN of Kennebec. Cosponsored by Speaker TALBOT ROSS of Portland and Senator: President JACKSON of Aroostook. **Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, on October 7, 2022 the Department of Administrative and Financial Services, Office of Cannabis Policy issued guidance stating that a medical use of cannabis registrant or adult use cannabis licensee must obtain a retail tobacco license in order to sell or give away certain products including electronic smoking devices, rolling papers, prerolled cannabis cigarettes, pipes or liquids used in electronic smoking devices, whether or not they contain nicotine; and

Whereas, according to the October 7, 2022 guidance, the penalty for selling these products without a retail tobacco license may include criminal charges, imprisonment and fines in excess of \$1,000 per violation; and

Whereas, enforcement of Maine's tobacco law is ongoing; and

Whereas, the Maine Medical Use of Cannabis Act authorizes a person to provide products such as those listed in the October 7, 2022 guidance to a qualifying patient or caregiver for purposes of the qualifying patient's medical use of cannabis; and

Whereas, the Cannabis Legalization Act authorizes a cannabis store to sell cannabis paraphernalia pursuant to its license; and

Whereas, Maine's tax laws under the Maine Revised Statutes, Title 36, chapter 704 specifically exclude any product that contains cannabis or cannabis products from the definition of tobacco products; 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- **Sec. 1. 22 MRSA §1551, sub-§3,** as repealed and replaced by PL 2017, c. 308, §3, is amended to read:
- **3. Tobacco product.** "Tobacco product" means any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, a hookah, pipe tobacco, chewing tobacco, snuff or snus. "Tobacco product" also means an electronic smoking device and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes and liquids used in electronic smoking devices, whether or not they contain nicotine. "Tobacco product" does not include drugs, devices or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act. "Tobacco product" does not include cannabis paraphernalia as defined in section 2422, subsection 17.

Sec. 2. 22 MRSA §2422, sub-§17 is enacted to read:

1 2 3 4 5	17. Cannabis paraphernalia. "Cannabis paraphernalia" means equipment, products, devices and materials that are used in planting, propagating, cultivating, growing, harvesting, processing, preparing, testing, analyzing, packaging, repackaging, storing or containing cannabis for medical use, including by ingesting, inhaling or otherwise introducing cannabis into the human body for medical use.
6 7	Sec. 3. 22 MRSA §2423-A, sub-§2, ¶P, as amended by PL 2021, c. 662, §12 and c. 669, §5, is further amended to read:
8 9	P. Operate one caregiver retail store to sell harvested cannabis to qualifying patients for the patients' medical use in accordance with this chapter; and
10 11	Sec. 4. 22 MRSA §2423-A, sub-§2, ¶Q, as amended by PL 2021, c. 662, §13, is further amended to read:
12 13	Q. Be organized as any type of legal business entity recognized under the laws of the State-; and
14	Sec. 5. 22 MRSA §2423-A, sub-§2, ¶S is enacted to read:
15 16	S. Sell, offer to sell or furnish cannabis paraphernalia to a qualifying patient for the patient's medical use of cannabis.
17 18	Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.
19	SUMMARY
20 21 22 23	This bill defines the term "cannabis paraphernalia" for purposes of the Maine Medical Use of Cannabis Act. It clarifies that cannabis paraphernalia is not a tobacco product under the laws governing the retail sale of tobacco. It permits a caregiver to sell or provide cannabis paraphernalia to a qualifying patient for the patient's medical use of cannabis.