1	L.D. 1392
2	Date: (Filing No. H-)
3	HEALTH AND HUMAN SERVICES
4	Reproduced and distributed under the direction of the Clerk of the House.
5	STATE OF MAINE
6	HOUSE OF REPRESENTATIVES
7	127TH LEGISLATURE
8	FIRST REGULAR SESSION
9 10	COMMITTEE AMENDMENT " " to H.P. 942, L.D. 1392, Bill, "An Act To Amend the Maine Medical Use of Marijuana Act"
11 12	Amend the bill by striking out all of section 1 (page 1, lines 2 to 6 in L.D.) and inserting the following:
13 14	'Sec. 1. 16 MRSA §805, sub-§§5 and 6, as enacted by PL 2013, c. 267, Pt. A, §3, are amended to read:
15 16 17 18 19 20	5. An authorized person or entity. A person or public or private entity expressly authorized to receive the intelligence and investigative record information by statute, executive order, court rule, court decision or court order. "Express authorization" means language in the statute, executive order, court rule, court decision or court order that specifically speaks of intelligence and investigative record information or specifically refers to a type of intelligence or investigative record; or
21 22	6. Secretary of State. The Secretary of State for use in the determination and issuance of a driver's license suspension-; or
23	Sec. 2. 16 MRSA §805, sub-§7 is enacted to read:
24 25 26 27 28	7. Government agency responsible for administering Maine Medical Use of Marijuana Act. The government agency responsible for administering the Maine Medical Use of Marijuana Act if the intelligence and investigative record information is used in the management of a current investigation pursuant to the Maine Medical Use of Marijuana Act.'
29	Amend the bill by striking out all of section 11 (page 3, lines 1 to 6 in L.D.)
30 31 32 33 34 35	Amend the bill in section 12 in paragraph A-1 in the 2nd line (page 3, line 9 in L.D.) by inserting after the following: "patient" the following: '. A primary caregiver may request a waiver from the department to obtain permission to provide more than 2 1/2 ounces of prepared marijuana during a 15-day period to accommodate a qualifying patient's medical needs. The department shall adopt rules governing the waiver process established under this paragraph'

Amend the bill in section 13 in paragraph A in the 7th line (page 3, line 18 in L.D.) by striking out the following: "further the business of the municipality" and inserting the following: 'enforce municipal code'
Amend the bill in section 14 in paragraph B in the 3rd line from the end (page 3, line 33 in L.D.) by striking out the following: "further the business of the municipality" and inserting the following: 'enforce municipal code'
Amend the bill in section 15 in paragraph C by striking out all of the first 3 lines (page 3, lines 38 to 40 in L.D.) and inserting the following:
'C. A primary caregiver designated to cultivate marijuana for a qualifying patient is required to register with the department, except that the following primary caregivers are not required to register: a primary caregiver who cultivates for up to 2 qualifying patients is not required to register if the qualifying patients are members of the family of that primary caregiver and residents of this State.'
Amend the bill in section 19 in subsection 3 in the 3rd line (page 5, line 24 in L.D.) by inserting after the following: "caregivers," the following: 'employees of a registered primary caregiver,'
Amend the bill by striking out all of section 21 (page 5, lines 37 and 38 in L.D.) and inserting the following:
'Sec. 21. 22 MRSA §2425, sub-§2, as amended by PL 2013, c. 516, §11, is further amended to read:
2. Issuing medical certification card to minor child. The department A medical provider may not register and issue a registry identification card that is a medical provider-issued medical certification card to a qualifying patient who is under 18 years of age minor unless:
A. The qualifying patient's medical provider has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent guardian or person having legal custody of the qualifying patient;
B. The parent, guardian or person having legal custody consents in writing to:
(1) The qualifying patient's medical use of marijuana;
(2) Serving as one of the qualifying patient's primary caregivers; and
(3) Controlling the acquisition of the marijuana and the dosage and the frequency of the medical use of marijuana by the qualifying patient; and
D. The requirements of section 2423-B, subsection 2 have been met.'
Amend the bill in section 22 in subsection 3 in the 8th line (page 6, line 8 in L.D.) by

Amend the bill in section 24 in subsection 5 by striking out all of the first paragraph

(page 6, lines 22 to 30 in L.D.) and inserting the following:

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'5. Registry identification card issuance. The department shall issue registry identification cards to registered patients, to registered primary caregivers, to employees of registered caregivers and to staff of hospice providers and nursing facilities, as applicable, designated by registered qualifying patients as primary caregivers within 5 days of approving an application or renewal under this section. Registry identification cards expire one year after the date of issuance, except that the date of issuance and expiration date of a registered primary caregiver's registry identification card must be the same as the issuance and expiration dates on the patient's registry identification card. Registry identification cards must contain:'

Amend the bill by striking out all of section 32 (page 9, lines 1 to 10 in L.D.) and inserting the following:

- 'Sec. 32. 22 MRSA §2428, sub-§1-A, ¶A, as amended by PL 2011, c. 407, Pt. B, §32, is further amended to read:
 - A. Possess and dispense up to 2 1/2 ounces of prepared marijuana and possess an incidental amount of marijuana for each qualifying patient who has designated the dispensary. A dispensary may request a waiver from the department to obtain permission to dispense more than 2 1/2 ounces of prepared marijuana to accommodate a qualifying patient's medical needs. The department shall adopt rules governing the waiver process established under this paragraph. For the purposes of this chapter, any incidental amount of marijuana is lawful for a registered dispensary to possess and is not included in the amounts of prepared marijuana specified in this paragraph;
- **Sec. 33. 22 MRSA §2428, sub-§2, ¶B,** as amended by PL 2009, c. 631, §42 and affected by §51, is repealed.'
- Amend the bill in section 33 in paragraph I in the 4th line from the end (page 9, line 26 in L.D.) by striking out the following: "further the business of the municipality" and inserting the following: 'enforce municipal code'
- Amend the bill in section 34 in subsection 4 by striking out all of paragraph B (page 9, lines 36 to 37 in L.D.) and inserting the following:
 - 'B. A primary caregiver whose caregiver registration card has been revoked shall, in accordance with this chapter, dispose of all medical marijuana in any form for designated qualifying patients.
 - C. A person who was a primary caregiver until that person's caregiver registration card for qualifying patients was revoked may continue to cultivate marijuana for that person's personal use if that person is a qualifying patient if not otherwise prohibited under the law.'
- Amend the bill in section 36 in §2430-A by striking out all of subsections 3 and 4 (page 10, lines 13 to 24 in L.D.) and inserting the following:
- '3. Registered primary caregiver penalties. A registered primary caregiver who fails to comply with the provisions of this chapter commits a civil violation for which a fine of not less than \$200 per day and not more than \$500 per day may be adjudged.

4	4.]	Registered	dispen	sary	penalties.	A	registered	dis dis	pensai	ry that	fails	to	con	aply
with	the	provisions	of this	chapt	er commits	s a	civil viola	ation	for w	hich a	fine	of	not	less
than	\$50	0 per day a	nd not r	nore t	han \$1,000) pe	er day may	be a	adjudg	ged.'		-		

Amend the bill in section 36 in §2430-A in subsection 5 in the 4th line (page 10, line 28 in L.D.) by striking out the following: "must" and inserting the following: 'may'

Amend the bill in section 36 in §2430-A in subsection 6 in the 3rd line from the end (page 10, line 36 in L.D.) by striking out the following: "must" and inserting the following: 'may'

Amend the bill in section 36 in §2430-A by striking out all of subsection 9 (page 11, lines 15 and 16 in L.D.) and inserting the following:

'9. Rules. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to carry out the objectives of this section, including but not limited to establishing a process for technical assistance and for the development of a corrective action plan for an individual found to be in violation of this chapter.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

17 SUMMARY

This amendment, which is the majority report, does the following:

- 1. It reallocates the provisions of the bill that govern the dissemination of intelligence and investigative record information from the Maine Revised Statutes, Title 16, section 806 to Title 16, section 805;
- 2. It removes changes to the provision that governs from whom a qualifying patient may accept excess prepared marijuana;
- 3. It provides that primary caregivers and registered dispensaries may request a waiver from the Department of Health and Human Services to obtain permission to provide more than 2 1/2 ounces of prepared marijuana during a 15-day period to accommodate a qualifying patient's medical needs and directs the department to adopt rules governing the waiver process;
- 4. It changes the condition for the right of access to a cultivation facility by a municipal official from "to further the business of the municipality" to "to enforce municipal code";
- 5. It includes an exception to the registration requirement for a primary caregiver designated to cultivate marijuana for a qualifying patient who cultivates for up to 2 qualifying patients if the qualifying patients are members of the family of that primary caregiver and residents of this State;
- 6. It includes employees of a registered primary caregiver in the list of individuals required to obtain registry identification cards;
- 7. It changes the standard for denial of an application from a requirement that the applicant acted in bad faith with respect to the laws and rules governing the medical use of marijuana to a requirement that the applicant violated these laws and rules;

1	8. It eliminates the exception for expiration of registry identification cards;
2 3 4	9. It repeals the requirement that the department track the number of qualifying patients who designate a dispensary to cultivate marijuana for them and report this number to the dispensary;
5 6 7 8	10. It provides that a person who was a primary caregiver until that person's caregiver registration card for qualifying patients was revoked may continue to cultivate marijuana for that person's personal use if that person is a qualifying patient and not otherwise prohibited under the law; and
9 10 11 12 13 14 15	11. It makes the imposition of fines discretionary; amends the penalty provisions for registered primary caregivers and dispensaries so that each day of a violation does not constitute a separate offense and so that a Class D crime may not be imposed for repeat violations; eliminates the provision establishing the burden of proof for alleged violations of the Maine Medical Use of Marijuana Act; and directs the Department of Health and Human Services to adopt routine technical rules to carry out the objectives of the compliance provisions.
16	FISCAL NOTE REQUIRED
17	(See attached)