

Maine Revised Statutes
Title 28-B: ADULT USE MARIJUANA

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Title 28-B: ADULT USE MARIJUANA

Chapter 1: MARIJUANA LEGALIZATION ACT

Subchapter 1: GENERAL PROVISIONS

§101. SHORT TITLE

This chapter may be known and cited as "the Marijuana Legalization Act." [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§102. DEFINITIONS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings. [2017, c. 409, Pt. A, §6 (NEW).]

1. Adult use marijuana. "Adult use marijuana" means marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Adult use marijuana product. "Adult use marijuana product" means a marijuana product that is manufactured, distributed or sold by a marijuana establishment.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Another jurisdiction. "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states of the United States except Maine.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Applicant. "Applicant" means a person that submits an application for a license under this chapter to the department for review that the department has not yet approved or denied.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Batch. "Batch" means:

A. A specific quantity of adult use marijuana harvested during a specified period of time from a specified cultivation area within a cultivation facility; or [2017, c. 409, Pt. A, §6 (NEW).]

B. A specific quantity of adult use marijuana or adult use marijuana products produced during a specified period of time in a specified manufacturing area within a products manufacturing facility. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Batch number. "Batch number" means a distinct group of numbers, letters or symbols, or any combination thereof, assigned to a specific batch of adult use marijuana by a cultivation facility or to a specific batch of adult use marijuana or adult use marijuana products by a products manufacturing facility.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. Business entity. "Business entity" means a partnership, association, company, corporation, limited liability company or other entity incorporated or otherwise formed or organized by law. "Business entity" does not include a federal, state or municipal government organization.

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Child-resistant. "Child-resistant" means, with respect to packaging or a container:

A. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and [2017, c. 409, Pt. A, §6 (NEW) .]

B. With respect to any product intended for more than a single use or that contains multiple servings, resealable. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

9. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

[2017, c. 409, Pt. A, §6 (NEW) .]

10. Container. "Container" means a sealed package in which adult use marijuana or an adult use marijuana product is placed by a marijuana store prior to sale to a consumer and that meets all applicable packaging, labeling and health and safety requirements of this chapter and the rules adopted pursuant to this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

11. Criminal justice agency. "Criminal justice agency" has the same meaning as in Title 16, section 803, subsection 4.

[2017, c. 409, Pt. A, §6 (NEW) .]

12. Cultivation or cultivate. "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction.

[2017, c. 409, Pt. A, §6 (NEW) .]

13. Cultivation facility. "Cultivation facility" means a facility licensed under this chapter to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

[2017, c. 409, Pt. A, §6 (NEW) .]

14. Department. "Department" means the Department of Administrative and Financial Services.

[2017, c. 409, Pt. A, §6 (NEW) .]

15. Disqualifying drug offense. "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more, except that "disqualifying drug offense" does not include:

A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years prior to the submission of an application for a license under this chapter; or [2017, c. 409, Pt. A, §6 (NEW).]

B. An offense that consisted of conduct that is authorized under chapter 3. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

16. Edible marijuana product. "Edible marijuana product" means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing marijuana or marijuana concentrate.

[2017, c. 409, Pt. A, §6 (NEW) .]

17. Flowering. "Flowering" means, with respect to a marijuana plant, the gametophytic or reproductive state of a female marijuana plant during which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of marijuana.

[2017, c. 409, Pt. A, §6 (NEW) .]

18. Identity statement. "Identity statement" means the name of a business entity as it is commonly known and used in any advertising or marketing by the business entity.

[2017, c. 409, Pt. A, §6 (NEW) .]

19. Immature marijuana plant. "Immature marijuana plant" means a marijuana plant that is not a mature marijuana plant or a seedling.

[2017, c. 409, Pt. A, §6 (NEW) .]

20. Inherently hazardous substance. "Inherently hazardous substance" means a liquid chemical, compressed gas or commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.

[2017, c. 409, Pt. A, §6 (NEW) .]

21. Intoxication. "Intoxication" means a substantial impairment of an individual's mental or physical faculties as a result of drug or alcohol use.

[2017, c. 409, Pt. A, §6 (NEW) .]

22. Law enforcement officer. "Law enforcement officer" has the same meaning as in Title 17-A, section 2, subsection 17.

[2017, c. 409, Pt. A, §6 (NEW) .]

23. Licensed premises. "Licensed premises" means the premises specified in a license to operate a marijuana establishment within which the licensee is authorized under this chapter and the rules adopted pursuant to this chapter to cultivate, manufacture, distribute, test or sell adult use marijuana or adult use marijuana products.

[2017, c. 409, Pt. A, §6 (NEW) .]

24. Licensee. "Licensee" means a person licensed pursuant to this chapter to operate a marijuana establishment.

[2017, c. 409, Pt. A, §6 (NEW) .]

25. Limited access area. "Limited access area" means a building, room or other area within the licensed premises of a marijuana establishment where a licensee is authorized to cultivate, store, weigh, manufacture, package or otherwise prepare for sale adult use marijuana and adult use marijuana products in accordance with the provisions of this chapter and the rules adopted pursuant to this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

26. Manufacturing or manufacture. "Manufacturing" or "manufacture" means the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

[2017, c. 409, Pt. A, §6 (NEW) .]

27. Marijuana. "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include industrial hemp as defined in Title 7, section 2231, subsection 1 or a marijuana product.

[2017, c. 409, Pt. A, §6 (NEW) .]

28. Marijuana concentrate. "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredient combined with marijuana or marijuana concentrate to prepare the marijuana product may not be included.

[2017, c. 409, Pt. A, §6 (NEW) .]

29. Marijuana establishment. "Marijuana establishment" means a cultivation facility, a products manufacturing facility, a testing facility or a marijuana store licensed under this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

30. Marijuana extraction. "Marijuana extraction" means the process of extracting marijuana concentrate from marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

[2017, c. 409, Pt. A, §6 (NEW) .]

31. Marijuana flower. "Marijuana flower" means the pistillate reproductive organs of a mature marijuana plant, whether processed or unprocessed, including the flowers and buds of the plant. "Marijuana flower" does not include marijuana trim or whole mature marijuana plants.

[2017, c. 409, Pt. A, §6 (NEW) .]

32. Marijuana plant. "Marijuana plant" means all species of the plant genus cannabis, including, but not limited to, a mother plant, a mature marijuana plant, an immature marijuana plant or a seedling.

[2017, c. 409, Pt. A, §6 (NEW) .]

33. Marijuana product. "Marijuana product" means a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.

[2017, c. 409, Pt. A, §6 (NEW) .]

34. Marijuana store. "Marijuana store" means a facility licensed under this chapter to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

[2017, c. 409, Pt. A, §6 (NEW) .]

35. Marijuana trim. "Marijuana trim" means any part of a marijuana plant, whether processed or unprocessed, that is not marijuana flower or a marijuana seed.

[2017, c. 409, Pt. A, §6 (NEW) .]

36. Mature marijuana plant. "Mature marijuana plant" means a marijuana plant that is flowering.

[2017, c. 409, Pt. A, §6 (NEW) .]

37. Mother plant. "Mother plant" means a mature marijuana plant that is used solely for the taking of seedling cuttings.

[2017, c. 409, Pt. A, §6 (NEW) .]

38. Municipality. "Municipality" means a city, town or plantation in this State that is not located within the unorganized and deorganized areas.

[2017, c. 409, Pt. A, §6 (NEW) .]

39. Opaque. "Opaque" means, with respect to packaging or a container, that any product inside of the packaging or container cannot be seen from outside the packaging or container.

[2017, c. 409, Pt. A, §6 (NEW) .]

40. Person. "Person" means a natural person or a business entity.

[2017, c. 409, Pt. A, §6 (NEW) .]

41. Plant canopy. "Plant canopy" means the total surface area within the licensed premises of a cultivation facility that is authorized by the department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation

of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants.

[2017, c. 409, Pt. A, §6 (NEW) .]

42. Caregiver. "Caregiver" has the same meaning as in Title 22, section 2422, subsection 8-A.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

43. Products manufacturing facility. "Products manufacturing facility" means a facility licensed under this chapter to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

[2017, c. 409, Pt. A, §6 (NEW) .]

44. Propagation. "Propagation" means the process of reproducing marijuana plants through the use of marijuana seeds, cuttings or grafting.

[2017, c. 409, Pt. A, §6 (NEW) .]

45. Qualifying patient. "Qualifying patient" means a person who possesses a valid certification for the medical use of marijuana pursuant to Title 22, section 2423-B.

[2017, c. 409, Pt. A, §6 (NEW) .]

46. (TEXT EFFECTIVE UNTIL 12/13/18) Registered dispensary. "Registered dispensary" means a nonprofit dispensary that is registered pursuant to Title 22, section 2428.

[2017, c. 409, Pt. A, §6 (NEW) .]

46. (TEXT EFFECTIVE 12/13/18) Registered dispensary. "Registered dispensary" has the same meaning as in Title 22, section 2422, subsection 6.

[2017, c. 452, §28 (AMD) .]

47. Registered caregiver. "Registered caregiver" has the same meaning as in Title 22, section 2422, subsection 11.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

48. Resident. "Resident" means a natural person who:

A. (TEXT EFFECTIVE UNTIL 6/1/21) (TEXT REPEALED 6/1/21) Has filed a resident individual income tax return in this State pursuant to Title 36, Part 8 in each of the 4 years prior to the year in which the person files an application for licensure under this chapter. This paragraph is repealed June 1, 2021; [2017, c. 409, Pt. A, §6 (NEW).]

B. Is domiciled in this State; and [2017, c. 409, Pt. A, §6 (NEW).]

C. Maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

49. Sale or sell. "Sale" or "sell" means a transfer or delivery of marijuana or marijuana products for consideration.

[2017, c. 409, Pt. A, §6 (NEW) .]

50. Sample. "Sample" means:

A. An amount of marijuana or an amount of a marijuana product provided to a testing facility by a marijuana establishment or other person for testing or research and development purposes in accordance with subchapter 6; [2017, c. 409, Pt. A, §6 (NEW).]

B. An amount of adult use marijuana or an amount of an adult use marijuana product collected from a licensee by the department for the purposes of testing the marijuana or marijuana product for product quality control purposes pursuant to section 512, subsection 2; [2017, c. 409, Pt. A, §6 (NEW).]

C. An amount of adult use marijuana provided by a cultivation facility to another licensee for business or marketing purposes pursuant to section 501, subsection 8; or [2017, c. 409, Pt. A, §6 (NEW).]

D. An amount of adult use marijuana or an amount of an adult use marijuana product provided to another licensee by a products manufacturing facility for business or marketing purposes pursuant to section 502, subsection 6. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

51. Seedling. "Seedling" means a marijuana plant that is:

A. Not flowering; [2017, c. 409, Pt. A, §6 (NEW).]

B. Less than 6 inches in height; and [2017, c. 409, Pt. A, §6 (NEW).]

C. Less than 6 inches in width. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

52. Tamper-evident. "Tamper-evident" means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.

[2017, c. 409, Pt. A, §6 (NEW) .]

53. Testing or test. "Testing" or "test" means the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency. "Testing" or "test" does not include cultivation or manufacturing.

[2017, c. 409, Pt. A, §6 (NEW) .]

54. Testing facility. "Testing facility" means a facility licensed under this chapter to develop, research and test marijuana, marijuana products and other substances.

[2017, c. 409, Pt. A, §6 (NEW) .]

55. THC. "THC" means tetrahydrocannabinol.

[2017, c. 409, Pt. A, §6 (NEW) .]

56. Universal symbol. "Universal symbol" means an image developed by the department, and made available to licensees, that indicates that a container, package or product contains marijuana or contains or is a marijuana product.

[2017, c. 409, Pt. A, §6 (NEW) .]

57. Unorganized and deorganized areas. "Unorganized and deorganized areas" has the same meaning as in Title 12, section 682, subsection 1.

[2017, c. 409, Pt. A, §6 (NEW) .]

58. Visibly intoxicated. "Visibly intoxicated" means in a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual that clearly demonstrates the state of intoxication.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §28 (AMD). 2017, c. 452, §37 (REV).

§103. UNAUTHORIZED CONDUCT; PENALTIES

1. Unauthorized conduct. Except as otherwise provided in this chapter, in the rules adopted pursuant to this chapter, in chapter 3 or in the Maine Medical Use of Marijuana Act or as specifically authorized pursuant to a license issued under this chapter, a person may not:

- A. Cultivate, manufacture or test marijuana or marijuana products; [2017, c. 409, Pt. A, §6 (NEW) .]
- B. Sell or offer for sale marijuana or marijuana products; or [2017, c. 409, Pt. A, §6 (NEW) .]
- C. Use, possess, transport, transfer, furnish or purchase marijuana or marijuana products. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Penalties. In addition to any penalties that may be imposed pursuant to this chapter or chapter 3, a person that violates any other provision of law or rule governing the conduct prohibited under subsection 1 is subject to any criminal or civil penalties that may be imposed pursuant to that other law or rule.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§104. IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT; STAFFING; RULEMAKING

1. Implementation, administration and enforcement. The department shall implement, administer and enforce this chapter and the rules adopted pursuant to this chapter and has the sole authority under this chapter to:

- A. Grant or deny applications for the licensure of marijuana establishments under this chapter; and [2017, c. 409, Pt. A, §6 (NEW) .]

B. Impose on a licensee any penalty authorized under this chapter or the rules adopted pursuant this chapter, including, but not limited to, a monetary penalty or a suspension or revocation of the licensee's license, upon a determination that the licensee has committed a violation of this chapter, a rule adopted pursuant to this chapter or a condition of licensure. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Staffing. The department may employ personnel as necessary to implement, administer and enforce this chapter and the rules adopted pursuant to this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Rulemaking; consultation. The department shall adopt all rules necessary to implement, administer and enforce this chapter.

A. The department shall consult with the Department of Agriculture, Conservation and Forestry prior to the adoption of any rules concerning the regulation of the cultivation, manufacture and testing of adult use marijuana and adult use marijuana products at cultivation facilities, products manufacturing facilities and testing facilities; the regulation of marijuana seeds and clones and marijuana plants; the use of pesticides, fungicides and herbicides in cultivation; the imposition of limits on the concentration of THC and other cannabinoids per serving in adult use marijuana products; odor control standards, sanitary standards, refrigeration requirements and storage and warehousing standards for licensees; and the regulation of the preparation, manufacture, testing, packaging and labeling of adult use marijuana and adult use marijuana products. [2017, c. 409, Pt. A, §6 (NEW).]

B. The department shall consult with the Department of Labor prior to the adoption of any rules concerning workplace, employment or other labor matters involved in the regulation of adult use marijuana and adult use marijuana products under this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

C. The department shall consult with the Department of Public Safety prior to the adoption of any rules concerning public safety or law enforcement matters involved in the regulation of adult use marijuana and adult use marijuana products under this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

Except as otherwise provided in this chapter, all rules adopted pursuant to this chapter are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§105. TRACKING SYSTEM

The department shall implement and administer a system, referred to in this section as "the tracking system," for the tracking of adult use marijuana and adult use marijuana products from immature marijuana plant to the point of retail sale, disposal or destruction. [2017, c. 409, Pt. A, §6 (NEW).]

1. Data submission requirements. The tracking system must allow licensees to submit tracking data for adult use marijuana or adult use marijuana products to the department through manual data entry or through the use of tracking system software commonly used within the marijuana industry as determined by the department.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Rules. The department shall adopt rules regarding the implementation and administration of the tracking system and tracking requirements for licensees.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§106. INDIVIDUAL IDENTIFICATION CARDS

The department shall issue individual identification cards to natural persons licensed under this chapter and, upon the request of a licensee, shall issue individual identification cards to owners, officers, managers, contractors, employees or other support staff of the licensee who meet the requirements of this section for the issuance of an individual identification card. [2017, c. 409, Pt. A, §6 (NEW).]

1. Rules. The department shall adopt rules regarding the issuance and format of and the information to be included on individual identification cards issued pursuant to this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Criminal history record check. Prior to issuing an individual identification card to a natural person pursuant to this section, the department shall require the person to submit to a criminal history record check in accordance with section 204.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§107. COLLECTION AND ANALYSIS OF PUBLIC HEALTH AND SAFETY DATA

The department shall develop programs or initiatives to facilitate the collection and analysis of data regarding the effects of the use of marijuana in the State, including, but not limited to, youth and adult marijuana use; school suspension and discipline relating to the use of marijuana; poison center calls, emergency department visits and hospitalizations relating to the use of or exposure to marijuana; operating under the influence citations or arrests relating to the use of marijuana; motor vehicle accidents, including information on fatalities, relating to the use of marijuana; violent crime relating to the use of marijuana generally; violent crime and property crime relating to the regulated and unregulated adult use marijuana markets; and marijuana-related citations or arrests. The department may adopt rules to implement this section. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§108. AWARENESS AND EDUCATION ON PUBLIC HEALTH AND SAFETY MATTERS

The department shall develop and implement or facilitate the development and implementation by a public or private entity of programs, initiatives and campaigns focused on increasing the awareness and education of the public on health and safety matters relating to the use of marijuana and marijuana products, including, but not limited to, programs, initiatives and campaigns focused on preventing and deterring the use of marijuana and marijuana products by persons under 21 years of age. Programs, initiatives and

campaigns developed and implemented pursuant to this section may be funded with revenue from the Adult Use Marijuana Public Health and Safety Fund established in section 1101. The department may adopt rules to implement this section. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§109. ENHANCED TRAINING FOR CRIMINAL JUSTICE AGENCIES

The department shall develop and implement or facilitate the development and implementation by a public or private entity of programs or initiatives providing enhanced training for criminal justice agencies in the requirements and enforcement of this chapter and the rules adopted pursuant to this chapter, including, but not limited to, programs providing grants to regional or local criminal justice agencies to train law enforcement officers in inspections, investigations, searches, seizures, forfeitures and personal use and home cultivation allowances under this chapter and chapter 3 and the rules adopted pursuant to this chapter and in drug recognition procedures and the general enforcement of the State's motor vehicle and criminal laws relating to the use of marijuana. Training programs or initiatives for criminal justice agencies developed and implemented pursuant to this section may be funded with revenue from the Adult Use Marijuana Public Health and Safety Fund established in section 1101. The department may adopt rules to implement this section. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§110. INVESTIGATION BY A CRIMINAL JUSTICE AGENCY OF UNLAWFUL ACTIVITY

A criminal justice agency may investigate unlawful activity in relation to a marijuana establishment and may conduct a criminal history record check of a licensee or its employees during an investigation of unlawful activity in relation to a marijuana establishment. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§111. CULTIVATION, CARE OR SALE OF MARIJUANA BY STATE OR LOCAL AGENCY PROHIBITED

A state, county or local agency or department, including, but not limited to, the department and a criminal justice agency, may not: [2017, c. 409, Pt. A, §6 (NEW).]

1. Cultivation or care of marijuana or marijuana products prohibited. Cultivate or otherwise care for or be required to cultivate or otherwise care for any marijuana or marijuana products belonging to, forfeited by or seized from any licensee or person pursuant to this chapter or chapter 3 or pursuant to any other applicable criminal or civil laws or rules; or

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Sale of marijuana or marijuana products prohibited. Sell or be required to sell marijuana or marijuana products belonging to, forfeited by or seized from any licensee or person pursuant to this chapter or chapter 3 or pursuant to any other applicable criminal or civil laws or rules or that are otherwise in the possession of the agency or department.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§112. EMPLOYMENT POLICIES

Except as otherwise provided in the Maine Medical Use of Marijuana Act, an employer: [2017, c. 409, Pt. A, §6 (NEW).]

1. Marijuana in workplace. Is not required to permit or accommodate the use, consumption, possession, trade, display, transportation, sale or cultivation of marijuana or marijuana products in the workplace;

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Workplace policies regarding marijuana use. May enact and enforce workplace policies restricting the use of marijuana and marijuana products by employees in the workplace or while otherwise engaged in activities within the course and scope of employment; and

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Discipline of employees. May discipline employees who are under the influence of marijuana in the workplace or while otherwise engaged in activities within the course and scope of employment in accordance with the employer's workplace policies regarding the use of marijuana and marijuana products by employees.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§113. REPORT TO LEGISLATURE

1. Report required. By February 15, 2020, and annually thereafter, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over adult use marijuana matters as provided in this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Report contents. The report required under subsection 1 must, at a minimum, include the following information:

A. The number of applications for each type of license submitted to the department pursuant to this chapter during the prior calendar year, including, if applicable, the number of applications for license renewals, and the number of each type of license conditionally approved by the department during the prior calendar year; [2017, c. 409, Pt. A, §6 (NEW).]

B. The total number of each type of active license issued by the department pursuant to this chapter in the prior calendar year following local authorization of a conditionally approved licensee; [2017, c. 409, Pt. A, §6 (NEW).]

C. The total square footage of plant canopy approved by the department for active cultivation facilities licensed in the prior calendar year, the percentage of active cultivation facility licenses by cultivation tier and, if applicable, the number of approved increases in the maximum plant canopy allowed under a tier 4 cultivation facility license in the prior calendar year pursuant to section 304; [2017, c. 409, Pt. A, §6 (NEW).]

D. The total amount of application fees and license fees collected pursuant to this chapter and the total amount of the excise and sales tax revenue collected on the sale of adult use marijuana and adult use marijuana products during the prior calendar year; [2017, c. 409, Pt. A, §6 (NEW).]

E. An overview of current adult use marijuana-related staffing at the department and the cost to the department to regulate the adult use marijuana industry in the State during the prior fiscal year and cost projections for the upcoming fiscal year; [2017, c. 409, Pt. A, §6 (NEW).]

F. The total reported volume and value of adult use marijuana cultivated and sold by all cultivation facilities in the prior calendar year, when available; [2017, c. 409, Pt. A, §6 (NEW).]

G. The total reported volume and value of adult use marijuana and adult use marijuana products sold by all marijuana stores in the prior calendar year, when available; [2017, c. 409, Pt. A, §6 (NEW).]

H. The number of inspections of the licensed premises of licensees performed by the department during the prior calendar year and the results of those inspections, including, but not limited to, the number of inspections resulting in license violations and the percentage of all licensees inspected during the prior calendar year; [2017, c. 409, Pt. A, §6 (NEW).]

I. The number of license violations committed by licensees during the prior calendar year and a breakdown of those violations into specific categories based on the type of violation and the outcome of the violation, including, but not limited to, the total amount of monetary penalties imposed and collected by the department and the percentage of total license violations resulting in the imposition of a monetary penalty, license suspension or license revocation; [2017, c. 409, Pt. A, §6 (NEW).]

J. Public health and safety data collected, received or analyzed by the department pursuant to section 107 in the prior calendar year; and [2017, c. 409, Pt. A, §6 (NEW).]

K. Recommendations, including any suggested legislation, to address any issues with the regulation of the adult use marijuana industry in the State encountered by the department in the prior calendar year. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Authority to report out legislation. After reviewing the report required under subsection 1, the joint standing committee of the Legislature having jurisdiction over adult use marijuana matters may report out legislation to implement any recommendations contained in the report or to address any other issues identified in the report.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 2: GENERAL LICENSING REQUIREMENTS

§201. LICENSE PROCESS; LICENSE TYPES

The department, upon receipt of an application in the prescribed form that meets all applicable requirements for licensure under this chapter and the rules adopted pursuant to this chapter, shall issue to the applicant a conditional license to operate one or more of the following types of marijuana establishments or shall deny the application in accordance with section 206: [2017, c. 409, Pt. A, §6 (NEW).]

1. Cultivation facility. Consistent with the requirements and restrictions of section 205, subsection 2, paragraph A and subchapter 3, a cultivation facility license;

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Testing facility. Consistent with the requirements and restrictions of section 205, subsection 2, paragraph B and section 503, subsection 2, a testing facility license;

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Products manufacturing facility. A products manufacturing facility license; or

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Marijuana store. Consistent with the restrictions of section 205, subsection 2, paragraph C, a marijuana store license.

[2017, c. 409, Pt. A, §6 (NEW) .]

Except as provided in section 205, the department may not impose any limitation on the number of each type of license that it issues to a qualified individual applicant or on the total number of each type of license that it issues to qualified applicants pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§202. GENERAL LICENSING CRITERIA

An applicant for a license to operate a marijuana establishment must meet each of the following requirements, if applicable. Except as otherwise provided in this section, if the applicant is a business entity, every officer, director, manager and general partner of the business entity must meet each of the requirements of this section. An applicant shall disclose in or include with its application the names and addresses of the applicant and all natural persons and business entities having a direct or indirect financial interest in the applied-for license and the nature and extent of the financial interest held by each person or entity and, if applicable, the nature and extent of any financial interest the person or entity has in any other license applied for or issued under this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Age. The applicant must be at least 21 years of age. If the applicant is a business entity, every officer, director, manager and general partner of the business entity must be at least 21 years of age.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Resident. If the applicant is a natural person, the applicant must be a resident. If the applicant is a business entity:

A. Every officer, director, manager and general partner of the business entity must be a natural person who is a resident; and [2017, c. 409, Pt. A, §6 (NEW) .]

B. A majority of the shares, membership interests, partnership interests or other equity ownership interests as applicable to the business entity must be held or owned by natural persons who are residents or business entities whose owners are all natural persons who are residents. [2017, c. 409, Pt. A, §6 (NEW) .]

This subsection does not apply to an applicant for a testing facility license.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Incorporated in State. If the applicant is a business entity, the business entity must be incorporated in the State or otherwise formed or organized under the laws of the State.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. No disqualifying drug offense. The applicant may not have been previously convicted of a disqualifying drug offense.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Not employee of state agency. The applicant may not be employed by the department or any other state agency with regulatory authority under this chapter or the rules adopted pursuant to this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Not law enforcement officer or corrections officer. The applicant may not be a law enforcement officer; a corrections officer as defined in Title 25, section 2801-A, subsection 2; or any other natural person subject to the certification requirements of Title 25, chapter 341.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. No license revocation. The applicant may not have had a license previously issued under this chapter revoked.

[2017, c. 409, Pt. A, §6 (NEW) .]

8. No medical registry identification card or registration certificate revocation. The applicant may not have had a registry identification card or registration certificate previously issued pursuant to the Maine Medical Use of Marijuana Act revoked.

[2017, c. 409, Pt. A, §6 (NEW) .]

9. No revocation of other state marijuana license, permit, certificate or other government-issued authorization. The applicant may not have had a license, permit, certificate or other government-issued authorization issued in another jurisdiction allowing the cultivation, manufacture, testing or sale of marijuana or marijuana products revoked.

[2017, c. 409, Pt. A, §6 (NEW) .]

10. No outstanding court-ordered payments. A license may not be issued to an applicant that has any outstanding payments due in this State on court-ordered fines, court-appointed attorney's fees or court-ordered restitution.

[2017, c. 409, Pt. A, §6 (NEW) .]

11. Criminal history record check. The applicant must have submitted to a criminal history record check in accordance with the requirements of section 204.

[2017, c. 409, Pt. A, §6 (NEW) .]

12. Compliance with application process; no false statement of material fact. The applicant must have completed all application forms required by the department fully and truthfully and complied with all information requests of the department relating to the license application. A license may not be issued to an applicant that has knowingly or recklessly made any false statement of material fact to the department in applying for a license under this chapter. The department shall revoke the license of a licensee pursuant to subchapter 8 if, subsequent to the issuance of the license, the department determines that the licensee knowingly or recklessly made a false statement of material fact to the department in applying for the license.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§203. ADDITIONAL LICENSING CONSIDERATIONS

An applicant for a license to operate a marijuana establishment shall submit, and the department shall consider in determining whether to grant the license, the following additional information. If the applicant is a business entity, the applicant must submit the information required by this section for every officer, director, manager and general partner of the business entity. [2017, c. 409, Pt. A, §6 (NEW).]

1. Other convictions. The applicant shall submit information regarding the applicant's criminal convictions in this State or in another jurisdiction for any offense involving dishonesty, deception, misappropriation or fraud. The applicant may submit and the department shall consider if submitted any information regarding the applicant's criminal history record, including, but not limited to, evidence of rehabilitation, character references and educational achievements, with special consideration given to the time between the applicant's last criminal conviction and the consideration by the department of the application for licensure.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Tax compliance. The applicant shall submit information regarding:

A. The applicant's history of paying income and other taxes owed to the State, to another jurisdiction, if applicable, and to the United States Internal Revenue Service over the 2 years immediately preceding the year in which the application is filed; and [2017, c. 409, Pt. A, §6 (NEW).]

B. Any outstanding tax liens imposed or levied against the applicant in this State or in another jurisdiction within the 5 years immediately preceding the year in which the application is filed. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Other state marijuana-related violations or penalties. If the applicant has held a license, permit, certificate or other government-issued authorization in another jurisdiction allowing the cultivation, manufacture, testing or sale of marijuana or marijuana products, the applicant shall submit information regarding any violations by or penalties imposed on the applicant in that other jurisdiction.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§204. CRIMINAL HISTORY RECORD CHECK

The department shall request a criminal history record check for each applicant for a license under this chapter and may at any time require a licensee to submit to a criminal history record check in accordance with this section. If the applicant is a business entity, every officer, director, manager and general partner of the business entity is required to submit to a criminal history record check in accordance with this section. A criminal history record check conducted pursuant to this section must include criminal history record information obtained from the Maine Criminal Justice Information System established in Title 16, section 631 and the Federal Bureau of Investigation. [2017, c. 409, Pt. A, §6 (NEW).]

1. Record of public criminal history information required. Criminal history record information obtained from the Maine Criminal Justice Information System pursuant to this section must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Other state and national criminal history record information required. Criminal history record information obtained from the Federal Bureau of Investigation pursuant to this section must include other state and national criminal history record information.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Fingerprinting. An individual required to submit to a criminal history record check under this section shall submit to having the individual's fingerprints taken. The State Police, upon payment by the individual of the fee required under subsection 4, shall take or cause to be taken the individual's fingerprints and shall forward the fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. The State Bureau of Identification shall conduct the state and national criminal history record checks required under this section. Except for the portion of a payment, if any, that constitutes the processing fee for a criminal history record check charged by the Federal Bureau of Investigation, all money received by the State Police under this section must be paid to the Treasurer of State, who shall apply the money to the expenses incurred by the Department of Public Safety in the administration of this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Fees. The department shall by rule set the amount of the fee to be paid by an individual under subsection 3 for each criminal history record check required to be performed under this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Availability of criminal history record information. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Use of criminal history record information. State and national criminal history record information obtained by the department under this section may be used only for the purpose of screening an applicant for a license or a licensee under this chapter or as necessary for the issuance of an individual identification card under section 106.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. Confidentiality. All criminal history record information obtained by the department pursuant to this section is confidential, is for the official use of the department only and may not be disseminated outside of the department or disclosed to any other person or entity except as provided in subsection 5.

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Rules. The department, after consultation with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§205. APPLICATION PROCESS; ISSUANCE OF LICENSE

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Forms; payment of fees. An applicant shall file an application on forms prepared and furnished by the department for the type of license sought along with the appropriate application fee as determined by the department pursuant to section 207.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Applications for multiple licenses. An applicant may apply for and be granted multiple licenses of any license type under this chapter, except that:

A. If the applicant has applied for the issuance or renewal of a cultivation facility license, the issuance or renewal of the cultivation facility license may not result in the applicant or a person with a direct or indirect financial interest in that license holding or having a direct or indirect financial interest in:

(1) More than 3 cultivation facility licenses; or

(2) Multiple cultivation facility licenses with a combined total licensed amount of plant canopy exceeding 30,000 square feet, except when that exceedance is solely attributable to approved increases in the maximum licensed area of plant canopy authorized under a tier 4 cultivation facility license pursuant to section 304; [2017, c. 409, Pt. A, §6 (NEW).]

B. If the applicant has applied for the issuance or renewal of a testing facility license, the applicant may not be a caregiver or registered caregiver or have an interest in a registered dispensary, a cultivation facility license, a products manufacturing facility license or a marijuana store license. If the applicant has applied for the issuance or renewal of any license under this chapter that is not a testing facility license, the applicant may not have an interest in a testing facility license. An applicant that meets the requirements for the issuance of a testing facility license under this chapter and the requirements of this paragraph may apply for and be issued multiple testing facility licenses. For purposes of this paragraph, "interest" means an equity ownership interest or a partial equity ownership interest or any other type of financial interest, including, but not limited to, being an investor or serving in a management position; and [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

C. (TEXT EFFECTIVE UNTIL 1/1/22) (TEXT REPEALED 1/1/22) If the applicant has applied for the issuance or renewal of a marijuana store license, the issuance or renewal of the marijuana store license may not result in the applicant or a person with a direct or indirect financial interest in that license holding or having a direct or indirect financial interest in more than 4 marijuana store licenses.

This paragraph is repealed January 1, 2022. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

3. Issuance of conditional license. Within 90 days of receipt of an application for a license to operate a marijuana establishment or for renewal of an existing license to operate a marijuana establishment, the department either shall issue to the applicant a conditional license to operate the marijuana establishment if the applicant meets all applicable requirements for licensure under this chapter and the rules adopted pursuant to this chapter or shall deny the application in accordance with section 206.

A. A licensee that has been issued a conditional license by the department may not engage in the cultivation, manufacture, testing or sale of adult use marijuana or adult use marijuana products until the department has issued an active license to the licensee pursuant to subsection 4. [2017, c. 409, Pt. A, §6 (NEW).]

B. A conditional license issued by the department pursuant to this subsection is effective for a period of one year from the date of issuance and may not be renewed. If a licensee issued a conditional license by the department fails to obtain an active license from the department pursuant to subsection 4 within one year from the date of issuance of the conditional license, the conditional license expires. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Issuance of active license upon certification of local authorization and payment of applicable license fee. The department shall issue an active license to an applicant that has been issued a conditional license pursuant to subsection 3 and that meets all applicable requirements of this subsection.

A. Within 10 days of receiving certification of local authorization from a municipality as required by section 402, subsection 3, paragraph B or, in the case of a marijuana establishment to be located in the unorganized and deorganized areas, from the Maine Land Use Planning Commission as required by section 403, subsection 3, paragraphs B and C, the department shall notify the applicant that certification of local authorization has been confirmed and that, in order for the department to issue an active license, the applicant must:

- (1) Pay the applicable license fee required pursuant to section 207;
- (2) Submit a facility plan that specifies the location, size and layout of the marijuana establishment within the municipality or, in the case of a marijuana establishment to be located in the unorganized and deorganized areas, within the town, plantation or township in which the marijuana establishment will be located;
- (3) If the application is for a license to operate a cultivation facility, submit updated operating and cultivation plans as required under section 302 based upon the actual premises to be licensed, except that, if no changes to the original operating and cultivation plans submitted by the applicant are necessary based upon the actual premises to be licensed, then the applicant may satisfy this requirement by resubmitting the original operating and cultivation plans and noting on those plans that no changes are necessary; and
- (4) If the application is for a license to operate a nursery cultivation facility, as described in section 301, subsection 5, or a marijuana store, register with the State Tax Assessor pursuant to Title 36, section 1754-B to collect and remit the sales tax on the sale of adult use marijuana and adult use marijuana products imposed under Title 36, section 1811. [2017, c. 409, Pt. A, §6 (NEW) .]

B. The department shall prepare and furnish to applicants, municipalities and the Maine Land Use Planning Commission a certification form by which the municipality may certify to the department that the applicant has obtained local authorization as required by section 402, subsection 3, paragraph B or, in the case of a marijuana establishment to be located in the unorganized and deorganized areas, the Maine Land Use Planning Commission may certify to the department that the applicant has obtained local authorization as required by section 403, subsection 3, paragraphs B and C. [2017, c. 409, Pt. A, §6 (NEW) .]

C. Upon receipt of payment of the applicable license fee and any other documentation required under paragraph A, the department shall issue an active license to the applicant. The license must specify the date of issuance of the license, the period of licensure, the date of expiration of the license, the name of the licensee and the address of the licensed premises. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Each license separate. Each license issued by the department to an applicant under this chapter is separate and distinct from any other license issued by the department to that same applicant under this chapter. A person must obtain a separate license under this chapter for each proposed geographical location of any type of marijuana establishment.

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Licensee must maintain possession of premises. As a condition of licensure, a licensee must at all times maintain possession of the licensed premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises. If a licensee fails to maintain possession of the licensed premises,

the licensee shall immediately cease all activities relating to the operation of the marijuana establishment and may apply to the department for relocation of the licensed premises pursuant to section 211 or may terminate its license pursuant to section 212.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§206. DENIAL OF LICENSE

1. Denial for good cause. The department, for good cause, may deny an application for an initial license, a license renewal, a transfer of ownership interests or a relocation of licensed premises. Denial of an application by the department pursuant to this section constitutes a final agency action as defined in Title 5, section 8002, subsection 4.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Good cause defined. As used in this section, "good cause" means a finding by the department that:

A. An applicant or licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this chapter, the rules adopted pursuant to this chapter or any other applicable state or local law, rule or regulation; or [2017, c. 409, Pt. A, §6 (NEW).]

B. An applicant or licensee has failed to comply with any special terms, consent decree or conditions placed upon the previously issued license pursuant to an order of the department; the municipality in which the licensed premises are located; the town or plantation in the unorganized and deorganized areas in which the licensed premises are located; in the case of a township in the unorganized and deorganized areas in which the licensed premises are located, the county commissioners of the county in which the township is located; or, in the case of a marijuana establishment located in the unorganized and deorganized areas, the Maine Land Use Planning Commission. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Notification of denial and right to appeal. Upon the department's determination to deny a license application, the department shall notify the applicant in writing of the denial, the basis for the denial and the applicant's right to appeal the denial to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§207. APPLICATION FEES; LICENSE FEES

The department, in accordance with the provisions of this section, shall adopt by rule a licensing fee schedule establishing fees that are designed to meet, but not to exceed, the estimated licensing, enforcement and administrative costs of the department under this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Fees for cultivation facilities. For a cultivation facility license, the department shall require payment of an application fee and a license fee as follows:

A. For a tier 1 cultivation facility license, as described in section 301, subsection 1, an application fee of \$100 and a license fee as follows:

(1) If the applicant has applied for a plant-count-based tier 1 cultivation facility license as described in section 301, subsection 1, paragraph A, a license fee of not more than \$9 per mature marijuana plant for an outdoor cultivation facility and not more than \$17 per mature marijuana plant for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; or

(2) If the applicant has applied for a plant-canopy-based tier 1 cultivation facility license as described in section 301, subsection 1, paragraph B, a license fee of not more than \$250 for an outdoor cultivation facility and not more than \$500 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; [2017, c. 409, Pt. A, §6 (NEW) .]

B. For a tier 2 cultivation facility license, as described in section 301, subsection 2, an application fee of \$500 and a license fee of not more than \$1,500 for an outdoor cultivation facility and not more than \$3,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; [2017, c. 409, Pt. A, §6 (NEW) .]

C. For a tier 3 cultivation facility license, as described in section 301, subsection 3, an application fee of \$500 and a license fee of not more than \$5,000 for an outdoor cultivation facility and not more than \$10,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; [2017, c. 409, Pt. A, §6 (NEW) .]

D. For a tier 4 cultivation facility license, as described in section 301, subsection 4, an application fee of \$500 and a license fee of not more than \$15,000 for an outdoor cultivation facility and not more than \$30,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas, except that, for a tier 4 cultivation facility license for which an increased amount of licensed plant canopy has been approved by the department pursuant to section 304, for each approved increase in the amount of licensed plant canopy, the department may increase the maximum license fee by not more than \$5,000 for an outdoor cultivation facility and by not more than \$10,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; and [2017, c. 409, Pt. A, §6 (NEW) .]

E. For a nursery cultivation facility license, as described in section 301, subsection 5, an application fee of \$60 and a license fee of \$350. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Fees for products manufacturing facilities and marijuana stores. For a products manufacturing facility license or a marijuana store license, the department shall require payment of an application fee of \$250 and a license fee of not more than \$2,500.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Fees for testing facilities. For a testing facility license, the department shall require payment of an application fee of \$250 and a license fee of not more than \$1,000.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Payment of fees; fees to be deposited into Adult Use Marijuana Regulatory Coordination Fund. An applicant shall pay the application fee required by the department at the time that the applicant submits an application for licensure to the department for processing. An applicant shall pay the license fee required by the department in accordance with section 205, subsection 4. All fees collected by the department pursuant to this section must be deposited into the Adult Use Marijuana Regulatory Coordination Fund established in section 1102.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Return of fees prohibited. The department may not return to an applicant or licensee or reimburse an applicant or licensee for any portion of an application or license fee paid by the applicant or licensee, regardless of whether the applicant withdraws its application prior to a final decision of the department on the application, the licensee voluntarily terminates its license pursuant to section 212 or the department suspends or revokes the licensee's license in accordance with the provisions of subchapter 8.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§208. LICENSE TERM

An active license issued by the department pursuant to section 205, subsection 4 is effective for a period of one year from the date of issuance and may be renewed pursuant to section 209. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§209. LICENSE RENEWAL

1. Notification of expiration date. Ninety days prior to the expiration of an existing license issued under section 205, subsection 4, the department shall notify the licensee of the expiration date and the opportunity for renewal. Except as otherwise provided in this section, a licensee seeking to renew an existing license must file an application for renewal with the department, on forms prepared and furnished by the department, not less than 30 days prior to the date of expiration of the license.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Extension for good cause shown; late applications. Notwithstanding subsection 1, the department may for good cause shown accept an application for renewal of an existing license less than 30 days prior to the date of expiration of the license upon the payment of a late application fee to the department. The department may not accept an application for renewal of a license after the date of expiration of that license.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Operation under expired license. A licensee that files an application for renewal of its existing license and pays all required fees under this section prior to the expiration of the license may continue to operate the marijuana establishment under that license notwithstanding its expiration until such time as the department takes final action on the renewal application, except when the department suspends or revokes the license in accordance with the provisions of subchapter 8 prior to taking final action on the renewal application.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Expired license; cessation of activity and forfeiture of marijuana and marijuana products.

Except as provided in subsection 3, a person whose license has expired shall immediately cease all activities relating to the operation of the marijuana establishment previously authorized under that license and ensure that all adult use marijuana and adult use marijuana products cultivated, manufactured or otherwise in the possession of the person pursuant to that license are forfeited to the department for destruction in accordance with section 803.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Renewal application process; fees; rules. An applicant seeking renewal of a license to operate a marijuana establishment must pay to the department a renewal application fee or, if applicable, a late renewal application fee, and must demonstrate continued compliance with all applicable licensing criteria under this chapter, including, but not limited to, obtaining local authorization as required by section 402, subsection 3, paragraph B or, in the case of a marijuana establishment located in the unorganized and deorganized areas, as required by section 403, subsection 3, paragraphs B and C, except that an applicant seeking renewal of a license is not required to submit to a criminal history record check under section 204 unless specifically required to do so by the department.

A. The department may not issue an active license to a licensee seeking renewal of a license until the licensee obtains local authorization as required by section 402, subsection 3, paragraph B or, in the case of a marijuana establishment located in the unorganized and deorganized areas, as required by section 403, subsection 3, paragraphs B and C, pays the applicable license fee required under section 207 and meets all other applicable requirements for the issuance of an active license under section 205, subsection 4. [2017, c. 409, Pt. A, §6 (NEW).]

B. The department shall by rule set forth requirements for the submission, processing and approval of a renewal application, which must include, but are not limited to, setting of a reasonable renewal application fee and a reasonable late renewal application fee. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§210. TRANSFER OF OWNERSHIP INTERESTS

1. Transfer application. A licensee may apply to the department, on forms prepared and furnished by the department, for approval to transfer ownership interests in the license, including, but not limited to, a transfer of only a portion of the ownership interests in the license.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Compliance with licensure requirements; rules. A person seeking to assume an ownership interest in a license pursuant to this section must demonstrate to the department compliance with all applicable requirements for licensure under this chapter and the rules adopted under this chapter. The department shall by rule adopt requirements for the submission of a license transfer application and standards for the approval of a license transfer application, including, but not limited to, provisions relating to local authorization of a transfer of ownership interests in a license.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§211. RELOCATION OF LICENSED PREMISES

1. Relocation application. A licensee may apply to the department, on forms prepared and furnished by the department, for approval to relocate the licensed premises of the marijuana establishment that the licensee is licensed to operate.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Local authorization required. The department shall, within 10 days of receiving certification of local authorization pursuant to section 402, subsection 3, paragraph B from the municipality in which the relocated licensed premises are to be located or pursuant to section 403, subsection 3, paragraphs B and C from the Maine Land Use Planning Commission if the relocated licensed premises are to be located in the unorganized and deorganized areas, notify the licensee that local authorization has been confirmed for the relocation and that the licensee may proceed with relocation, and the department shall issue to the licensee an updated license specifying the address of the new premises.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Effect on license term. A relocation of licensed premises pursuant to this section does not extend or otherwise modify the license term of the license subject to relocation.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Rules. The department shall by rule adopt requirements for the submission of a license relocation application and standards for the approval of a relocation application.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§212. TERMINATION OF LICENSE

1. Notification of termination required. A licensee may not permanently abandon the licensed premises of the licensee or otherwise permanently cease all activities relating to the operation of the marijuana establishment under its license, whether voluntarily or pursuant to a license revocation in accordance with subchapter 8, without notifying the department and the municipality in which the licensed premises are located at least 48 hours in advance of the abandonment or termination.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Forfeiture and destruction of marijuana and marijuana products. Prior to abandoning the licensed premises of the licensee or terminating operations, a licensee shall provide the department and the municipality in which the licensed premises are located with a full accounting of all adult use marijuana and adult use marijuana products located within the licensed premises and forfeit the marijuana and marijuana products to the department for destruction in accordance with section 803.

[2017, c. 409, Pt. A, §6 (NEW) .]

For the purposes of this section, "municipality" means, in the case of a marijuana establishment not located in the unorganized and deorganized areas, the city, town or plantation in which the marijuana establishment is located; or, in the case of a marijuana establishment located in the unorganized and deorganized areas, the Maine Land Use Planning Commission and the town or plantation in which the marijuana establishment is located or, in the case of a marijuana establishment located in a township, the county commissioners of the county in which the township is located. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§213. NOTICE OF NEW OWNER, OFFICER, MANAGER OR EMPLOYEE

Before any proposed new owner, officer, manager or employee may own, manage, work for or otherwise associate with a licensee, the licensee shall notify the department in writing of the name, address and date of birth of the proposed new owner, officer, manager or employee and the proposed new owner, officer, manager or employee shall submit to a criminal history record check pursuant to section 204, obtain an individual identification card pursuant to section 106 and, in the case of a new owner or other person assuming an equity ownership interest or a partial equity ownership interest in the license, obtain approval for the transfer of ownership interests pursuant to section 210. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§214. INACTIVE LICENSES

The department may revoke or refuse to renew any license if it determines that the licensed premises have been inactive without reasonable justification for a period of one year or more. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§215. NOTIFICATION TO MUNICIPALITY; SHARING OF INFORMATION WITH BUREAU OF REVENUE SERVICES

The department shall notify a municipality within 14 days of the date the department approves, renews, denies, suspends or revokes the license of a licensee whose licensed premises are located or proposed to be located in the municipality; imposes a monetary penalty on a licensee located within the municipality; approves relocation of the licensed premises of a marijuana establishment to or from the municipality; or approves a transfer of ownership interest in a license with respect to which the licensed premises are located within the municipality. [2017, c. 409, Pt. A, §6 (NEW).]

The department shall provide the Bureau of Revenue Services with the same information provided to a municipality under this section at the time that the department notifies the municipality. [2017, c. 409, Pt. A, §6 (NEW).]

For the purposes of this section, "municipality" has the same meaning as in section 212. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 3: LICENSING REQUIREMENTS FOR CULTIVATION FACILITIES

§301. CULTIVATION FACILITY LICENSE TYPES

Subject to the requirements and restrictions of this subchapter and the requirements of subchapter 2, the department may issue to an applicant any of the following types of cultivation facility licenses: [2017, c. 409, Pt. A, §6 (NEW).]

1. Tier 1 cultivation facility license. A tier 1 cultivation facility license, which allows cultivation by a licensee of:

A. Not more than 30 mature marijuana plants and an unlimited number of immature marijuana plants and seedlings; or [2017, c. 409, Pt. A, §6 (NEW).]

B. Not more than 500 square feet of plant canopy. [2017, c. 409, Pt. A, §6 (NEW).]

An applicant for a tier 1 cultivation facility license shall designate in its cultivation plan whether the license sought is a plant-count-based tier 1 cultivation facility license under paragraph A or a plant-canopy-based tier 1 cultivation facility license under paragraph B;

[2017, c. 2, §12 (COR) .]

2. Tier 2 cultivation facility license. A tier 2 cultivation facility license, which allows cultivation by a licensee of not more than 2,000 square feet of plant canopy;

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Tier 3 cultivation facility license. A tier 3 cultivation facility license, which allows cultivation by a licensee of not more than 7,000 square feet of plant canopy;

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Tier 4 cultivation facility license. A tier 4 cultivation facility license, which allows cultivation by a licensee of not more than 20,000 square feet of plant canopy, except as provided in section 304; or

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Nursery cultivation facility license. A nursery cultivation facility license, which allows cultivation by a licensee of not more than 1,000 square feet of plant canopy, subject to the requirements and restrictions of section 501, subsection 3.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

RR 2017, c. 2, §12 (COR). 2017, c. 409, Pt. A, §6 (NEW).

§302. ADDITIONAL INFORMATION REQUIRED FOR APPLICATION FOR CULTIVATION FACILITY LICENSE

In addition to the information required to be submitted to the department pursuant to subchapter 2 and the rules relating to licensure of a cultivation facility adopted pursuant to this chapter, an applicant for a cultivation facility license shall submit to the department the following information. [2017, c. 409, Pt. A, §6 (NEW).]

1. Operating plan. The applicant shall submit an operating plan demonstrating the proposed size and layout of the cultivation facility; plans for wastewater and waste disposal for the cultivation facility; plans for providing electricity, water and other utilities necessary for the normal operation of the cultivation facility; plans for securing the proposed facility and otherwise meeting applicable security requirements under this chapter and the rules adopted pursuant to this chapter; and plans for compliance with applicable building code and federal and state environmental requirements.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Cultivation plan. The applicant shall submit a cultivation plan demonstrating the proposed size and layout of the cultivation areas at the cultivation facility and designating:

A. The total amount of plant canopy or, in the case of a plant-count-based tier 1 cultivation facility license, the number of mature marijuana plants proposed under the license; [2017, c. 409, Pt. A, §6 (NEW).]

B. The total percentage or square footage of plant canopy designated under paragraph A, or, in the case of a plant-count-based tier 1 cultivation facility license, the areas within the cultivation facility within which the applicant proposes to cultivate mother plants, seedlings and immature marijuana plants. If the applicant does not intend to cultivate mother plants, seedlings or immature marijuana plants at any time within any portion of the plant canopy designated under paragraph A, the applicant shall state that intent on the cultivation plan and shall include in the plan information regarding the approximate square footage of the cultivation areas outside of the plant canopy but within the proposed licensed premises of the cultivation facility in which the applicant intends to cultivate mother plants, seedlings and immature marijuana plants; and [2017, c. 409, Pt. A, §6 (NEW).]

C. The total percentage or square footage of plant canopy designated under paragraph A, or, in the case of a plant-count-based tier 1 cultivation facility license, the areas within the cultivation facility, within which the applicant proposes to cultivate mature marijuana plants. An applicant for a nursery cultivation facility license shall meet the requirements of this paragraph by designating on the cultivation plan the areas within the cultivation facility within which the applicant proposes to cultivate mature marijuana plants, demonstrating the physical separation of such areas from the areas in which immature marijuana plants and seedlings are to be cultivated in accordance with section 501, subsection 3, paragraph B. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§303. INCREASE IN CULTIVATION TIER UPON RENEWAL

A licensee seeking renewal of a cultivation facility license may, if applicable and in accordance with this section, apply for a tier of cultivation facility license with a greater area of authorized plant canopy than is authorized under the licensee's current cultivation facility license. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Approval criteria. The department may issue the applied-for tier of cultivation facility license if the licensee otherwise meets all applicable requirements for continued licensure under this chapter and the rules adopted pursuant to this chapter and the licensee has demonstrated to the department's satisfaction that:

A. The licensee has over the current period of licensure sold at least 85% of the adult use marijuana cultivated by the licensee at its cultivation facility; and [2017, c. 409, Pt. A, §6 (NEW) .]

B. The approval of the applied-for tier of cultivation facility license will not cause the licensee to exceed the combined plant canopy limitation in section 205, subsection 2, paragraph A. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Consideration of renewal of current license tier if approval criteria not met. If the department determines that the licensee has failed to satisfy the requirements of this section for the applied-for tier of cultivation facility license, the department shall consider renewing the licensee's license at the current tier.

[2017, c. 409, Pt. A, §6 (NEW) .]

This section does not apply to a nursery cultivation facility licensee. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§304. INCREASE IN MAXIMUM LICENSED PLANT CANOPY UPON RENEWAL OF TIER 4 LICENSE

In accordance with the requirements of this section, not more than once every 2 years, a licensee seeking renewal of a tier 4 cultivation facility license may apply to increase by 7,000 square feet the maximum area of plant canopy authorized under its current tier 4 cultivation facility license. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Approval criteria. The department may approve the requested increase if the licensee otherwise meets all applicable requirements for continued licensure under this chapter and the rules adopted pursuant to this chapter and the licensee has demonstrated to the department's satisfaction that the licensee has over the past 2-year period of licensure sold at least 85% of the adult use marijuana cultivated by the licensee at its cultivation facility.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Consideration of renewal of current licensed amount of plant canopy if approval criteria not met. If the department determines that the licensee has failed to satisfy the requirements of this section for the requested increase, the department shall consider renewing the licensee's license at the current tier and currently authorized maximum area of plant canopy.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

Subchapter 4: LOCAL REGULATION OF MARIJUANA ESTABLISHMENTS

§401. MUNICIPAL REGULATION OF MARIJUANA ESTABLISHMENTS GENERALLY

In accordance with the applicable provisions of this subchapter and pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate marijuana establishments within the municipality, including, but not limited to, adoption of the following types of regulations and restrictions. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Land use regulations. A municipality may adopt an ordinance providing land use regulations applicable to marijuana establishments within the municipality.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. General authorization or limitation of marijuana establishments. A municipality may adopt an ordinance generally authorizing the operation of some or all types of marijuana establishments within the municipality. A municipality may adopt an ordinance limiting the number of any type of marijuana establishment that may be authorized to operate within the municipality.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Municipal licensing requirements. A municipality may adopt an ordinance providing licensing requirements applicable to marijuana establishments within the municipality, which may include, but are not limited to, provisions establishing a municipal licensing fee schedule pursuant to Title 30-A, section 3702.

[2017, c. 409, Pt. A, §6 (NEW) .]

Notwithstanding any other provision of law to the contrary, a municipal ordinance regulating marijuana establishments within the municipality adopted pursuant to this subchapter is not subject to the requirements or limitations of Title 7, chapter 6 or 8-F. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§402. LOCAL AUTHORIZATION OF MARIJUANA ESTABLISHMENTS WITHIN MUNICIPALITIES

1. Request for local authorization to operate marijuana establishment in municipality prohibited unless authorized by municipal ordinance or warrant article. A person seeking to operate a marijuana establishment within a municipality may not request local authorization to operate the marijuana establishment pursuant to subsection 3 and a municipality may not accept as complete the person's request for local authorization unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including the type of marijuana establishment the person seeks to operate; and [2017, c. 409, Pt. A, §6 (NEW).]

B. The person has been issued by the department a conditional license to operate the marijuana establishment pursuant to section 205, subsection 3. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW).]

2. Minimum authorization criteria. A municipality may not authorize the operation of a marijuana establishment within the municipality if:

A. The marijuana establishment is proposed to be located within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality by ordinance or other regulation prohibits the location of marijuana establishments at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies. For the purposes of this paragraph, "school" includes a public school, as defined in Title 20-A, section 1, subsection 24, a private school, as defined in Title 20-A, section 1, subsection 22, a public preschool program, as defined in Title 20-A, section 1, subsection 23-A or any other educational facility that serves children from prekindergarten to grade 12; or [2017, c. 409, Pt. A, §6 (NEW).]

B. The person requesting local authorization to operate the marijuana establishment fails to demonstrate possession or entitlement to possession of the proposed licensed premises of the marijuana establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW).]

3. Local authorization required for operation of marijuana establishment within municipality. A person may not operate a marijuana establishment within a municipality unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including that type of marijuana establishment; [2017, c. 409, Pt. A, §6 (NEW).]

B. The person has obtained all applicable municipal approvals, permits or licenses that are required by the municipality for the operation of that type of marijuana establishment; and [2017, c. 409, Pt. A, §6 (NEW).]

C. The person has been issued by the department an active license to operate the marijuana establishment pursuant to section 205, subsection 4. [2017, c. 409, Pt. A, §6 (NEW).]

A municipality may certify to the department a person's compliance with the requirements of paragraph B on the form prepared and furnished by the department pursuant to section 205, subsection 4, paragraph B.

[2017, c. 409, Pt. A, §6 (NEW).]

4. Municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality fails to act on a person's request for local authorization to operate a marijuana establishment within the municipality, the municipality's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B.

[2017, c. 409, Pt. A, §6 (NEW).]

5. Appeal of municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality fails to act on a person's request for local authorization to operate a marijuana establishment within the municipality within 90 days after the date the person submitted the request to the municipality, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the municipality notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the municipality fails to act on the request within 180 days after the date the person submitted the request to the municipality.

[2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§403. LOCAL AUTHORIZATION OF MARIJUANA ESTABLISHMENTS WITHIN TOWNS, PLANTATIONS AND TOWNSHIPS IN THE UNORGANIZED AND DEORGANIZED AREAS

1. Request for local authorization to operate marijuana establishment in town, plantation or township in unorganized and deorganized areas prohibited unless generally allowed by town or plantation or by county commissioners on behalf of township. A person seeking to operate a marijuana establishment within a town, plantation or township located within the unorganized and deorganized areas may not request local authorization pursuant to subsection 3 to operate the marijuana establishment and the town, plantation or, in the case of a township, the county commissioners of the county in which the township is located may not accept as complete the person's request for local authorization unless:

A. In the case of a town or plantation, the legislative body of the town or plantation has voted to allow some or all types of marijuana establishments within the town or plantation, including the type of marijuana establishment the person seeks to operate and the person has been issued by the department a conditional license to operate the marijuana establishment pursuant to section 205, subsection 3; or [2017, c. 409, Pt. A, §6 (NEW).]

B. In the case of a township, the county commissioners of the county in which the township is located have voted to allow some or all types of marijuana establishments within the township, including the type of marijuana establishment the person seeks to operate and the person has been issued by the department a conditional license to operate the marijuana establishment pursuant to section 205, subsection 3. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Minimum authorization criteria. The Maine Land Use Planning Commission may not certify to the department local authorization of a marijuana establishment within a town, plantation or township located within the unorganized and deorganized areas pursuant to subsection 3 if:

A. The marijuana establishment is proposed to be located within 1,000 feet of the property line of a preexisting public or private school, except that, if the Maine Land Use Planning Commission prohibits the location of marijuana establishments within a town, plantation or township at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies. For the purposes of this paragraph, "school" has the same meaning as in section 402, subsection 2, paragraph A; or [2017, c. 409, Pt. A, §6 (NEW).]

B. The person requesting local authorization to operate the marijuana establishment fails to demonstrate possession or entitlement to possession of the proposed licensed premises of the marijuana establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Local authorization required for operation of marijuana establishment in town, plantation or township in unorganized and deorganized areas. A person may not operate a marijuana establishment within a town, plantation or township located within the unorganized and deorganized areas unless:

A. The legislative body of the town or plantation has voted to allow some or all types of marijuana establishments within the town or plantation, including that type of marijuana establishment, or, in the case of a township, the county commissioners of the county in which the township is located have voted to allow some or all types of marijuana establishments within the township, including that type of marijuana establishment; [2017, c. 409, Pt. A, §6 (NEW).]

B. The person has obtained all applicable local approvals, permits or licenses not relating to land use planning and development that are required for the operation of the marijuana establishment by the town, plantation or, in the case of a township, the county commissioners of the county in which the township is located; [2017, c. 409, Pt. A, §6 (NEW).]

C. The person has obtained all applicable approvals, permits or licenses relating to land use planning and development that are required by the Maine Land Use Planning Commission for the development and operation of the marijuana establishment; and [2017, c. 409, Pt. A, §6 (NEW).]

D. The person has been issued by the department an active license to operate the marijuana establishment pursuant to section 205, subsection 4. [2017, c. 409, Pt. A, §6 (NEW).]

The town, plantation or, in the case of a township, the county commissioners of the county in which the township is located, shall certify to the Maine Land Use Planning Commission that the person has obtained all applicable local approvals, permits or licenses not relating to land use planning and development as required under paragraph B. The Maine Land Use Planning Commission may certify to the department a person's compliance with the requirements of paragraphs B and C on the form prepared and furnished by the department pursuant to section 205, subsection 4, paragraph B.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Failure to act on request for local authorization. This subsection governs a failure to act on a request for local authorization by a town or a plantation or, in the case of a township, by the county commissioners of the county in which the township is located, or by the Maine Land Use Planning Commission.

A. If a town or plantation whose legislative body has voted to allow some or all types of marijuana establishments within the town or plantation fails to act on a person's request for local authorization under subsection 3, paragraph B, the town or plantation's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B. [2017, c. 409, Pt. A, §6 (NEW).]

B. If the county commissioners of the county in which a township is located, who have voted to allow some or all types of marijuana establishments within the township, fail to act on a person's request for local authorization under subsection 3, paragraph B, the county commissioners' failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B. [2017, c. 409, Pt. A, §6 (NEW).]

C. If the Maine Land Use Planning Commission fails to act on a person's request for local authorization under subsection 3, paragraph C, the commission's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph C. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW).]

5. Appeal of failure to act on request for local authorization. This subsection governs the appeal of a failure to act on a request for local authorization by a town or a plantation or, in the case of a township, by the county commissioners of the county in which the township is located, or by the Maine Land Use Planning Commission.

A. If a town or plantation whose legislative body has voted to allow some or all types of marijuana establishments within the town or plantation fails to act on a person's request for local authorization under subsection 3, paragraph B within 90 days after the date the person submitted the request to the town or plantation, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the town or plantation notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the town or plantation fails to act on the request within 180 days after the date the person submitted the request to the town or plantation. [2017, c. 409, Pt. A, §6 (NEW).]

B. If the county commissioners of the county in which a township is located, who have voted to allow some or all types of marijuana establishments within the township, fail to act on a person's request for local authorization under subsection 3, paragraph B within 90 days after the date the person submitted the request to the county commissioners, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the county commissioners notify the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the county commissioners fail to act on the request within 180 days after the date the person submitted the request to the county commissioners. [2017, c. 409, Pt. A, §6 (NEW).]

C. If the Maine Land Use Planning Commission fails to act on a person's request for local authorization under subsection 3, paragraph C within 90 days after the date the person submitted the request to the commission, the request is deemed denied and the denial constitutes a final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure, except that, if the commission notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed

denied and the denial constitutes a final agency action only if the commission fails to act on the request within 180 days after the date the person submitted the request to the commission. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§404. AUTHORITY OF MAINE LAND USE PLANNING COMMISSION

This chapter or rules adopted pursuant to this chapter may not be construed to limit the authority of the Maine Land Use Planning Commission to regulate land use planning and development activities within the unorganized and deorganized areas of the State pursuant to Title 12, chapter 206-A. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§405. INFORMATION REQUESTS

A municipality may request that the department provide any information obtained by the department pursuant to the provisions of subchapter 2 or 3 that the municipality determines necessary for the administration of its local authorization process for marijuana establishments under this subchapter. Unless the information is confidential pursuant to law or rule, the department, in a timely manner, shall provide the information requested pursuant to this section. For the purposes of this section, "municipality" has the same meaning as in section 212. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§406. NOTIFICATION TO DEPARTMENT

A municipality shall notify the department within 14 days of the date the municipality authorizes the operation of a marijuana establishment within the municipality; issues or renews a license for the operation of a marijuana establishment within the municipality; withdraws authorization or suspends or revokes a license for the operation of a marijuana establishment within the municipality; approves relocation of the licensed premises of a marijuana establishment to the municipality; or approves a transfer of ownership interests in a license the licensed premises of which are located within the municipality. For the purposes of this section, "municipality" has the same meaning as in section 212. [2017, c. 409, Pt. A, §6 (NEW).]

The department shall provide the Bureau of Revenue Services with any information received pursuant to this section within 14 days of the date the department receives that information. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 5: OPERATING REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS

§501. OPERATION OF CULTIVATION FACILITIES

A cultivation facility must be operated in accordance with the provisions of this section and the rules adopted pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

1. Cultivation of adult use marijuana only for sale and distribution to other licensees. Except as otherwise provided in this section, a cultivation facility may cultivate adult use marijuana only for sale and distribution to products manufacturing facilities, marijuana stores or other cultivation facilities.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Retail sale of adult use marijuana without separate marijuana store license prohibited. Except as provided in subsection 3, a cultivation facility may not sell or offer to sell adult use marijuana, immature marijuana plants or seedlings to consumers unless the cultivation facility licensee obtains from the department a separate license to operate a marijuana store and otherwise complies with all applicable requirements under this chapter and the rules adopted pursuant to this chapter concerning the operation of marijuana stores. A cultivation facility may not give away adult use marijuana, adult use marijuana products or marijuana plants to a consumer.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Operation of nursery cultivation facilities. A nursery cultivation facility as described in section 301, subsection 5 must be operated in accordance with the provisions of this subsection and must comply with all other applicable requirements of this chapter and the rules adopted pursuant to this chapter.

A. A nursery cultivation facility may cultivate immature marijuana plants, seedlings and marijuana seeds only for sale and distribution to marijuana stores and to other cultivation facilities pursuant to paragraph C and to consumers pursuant to paragraph D. [2017, c. 409, Pt. A, §6 (NEW).]

B. A nursery cultivation facility may cultivate mature marijuana plants only for the propagation of those mature marijuana plants or for the production of marijuana seeds by those mature marijuana plants, but the area within a nursery cultivation facility in which mature marijuana plants are cultivated must be physically separated from the area within the facility in which immature marijuana plants and seedlings are cultivated. A nursery cultivation facility may not sell, distribute or otherwise transfer to any person mature marijuana plants, marijuana flower or marijuana trim. [2017, c. 409, Pt. A, §6 (NEW) .]

C. A nursery cultivation facility may sell and distribute to marijuana stores and other cultivation facilities only immature marijuana plants, seedlings and marijuana seeds. Adult use marijuana sold by a nursery cultivation facility to marijuana stores and other cultivation facilities is subject to the excise tax imposed pursuant to subchapter 10, which must be paid to the department as required by subsection 9. [2017, c. 409, Pt. A, §6 (NEW).]

D. A nursery cultivation facility may sell to consumers only immature marijuana plants, seedlings, marijuana seeds and agricultural or gardening supplies relating to the cultivation of marijuana. Sales to consumers by a nursery cultivation facility:

(1) Must be conducted within a portion of the licensed premises of the nursery cultivation facility that is dedicated to consumer sales of immature marijuana plants, seedlings, marijuana seeds and agricultural or gardening supplies relating to the cultivation of marijuana. A nursery cultivation facility licensee shall ensure that the portion of the licensed premises of the nursery cultivation facility that is dedicated to consumer sales complies with all applicable requirements of this chapter and the rules adopted pursuant to this chapter concerning the operation of marijuana stores; and

(2) Are subject to the sales tax imposed pursuant to Title 36, section 1811 and must be collected and remitted as required by subsection 9. [2017, c. 409, Pt. A, §6 (NEW) .]

E. The department shall adopt rules regulating the operation of nursery cultivation facilities. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Marijuana extraction without separate products manufacturing facility license prohibited. A cultivation facility may not engage in the manufacture of marijuana concentrate by marijuana extraction unless the cultivation facility licensee has obtained from the department a separate license to operate a products manufacturing facility and otherwise meets the requirements under this chapter and the rules adopted pursuant to this chapter concerning the operation of a products manufacturing facility and concerning marijuana extraction.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Use of shared facility for cultivation of adult use marijuana and marijuana for medical use.

Subject to the requirements of this subsection and the rules adopted pursuant to this subsection, a cultivation facility licensee that is also a registered caregiver or a registered dispensary may cultivate adult use marijuana pursuant to this chapter within the same facility in which the licensee also cultivates marijuana for medical use pursuant to the Maine Medical Use of Marijuana Act.

A. A cultivation facility licensee that cultivates marijuana under this subsection must comply with all applicable requirements of this chapter and the rules adopted pursuant to this chapter concerning the operation of cultivation facilities. [2017, c. 409, Pt. A, §6 (NEW) .]

B. Except as provided in paragraph C, the areas of the shared facility in which adult use marijuana is cultivated must be separated from the areas of the shared facility in which marijuana for medical use is cultivated in a manner that provides for a visually conspicuous delineation of the physical space between the cultivation area for adult use marijuana and the cultivation area for marijuana for medical use. [2017, c. 409, Pt. A, §6 (NEW) .]

C. The following items or areas within the shared facility may be shared for both the cultivation of adult use marijuana and the cultivation of marijuana for medical use:

(1) Cultivation-related and noncultivation-related equipment, except that cultivation-related equipment may not be simultaneously used for the cultivation of adult use marijuana and the cultivation of marijuana for medical use;

(2) Cultivation-related and noncultivation-related supplies or products not containing marijuana or marijuana products and the storage areas for those supplies or products; and

(3) General office space, bathrooms, entryways and walkways. [2017, c. 409, Pt. A, §6 (NEW) .]

D. Each marijuana plant within the shared facility must be tagged or otherwise identified as an adult use marijuana plant or a marijuana plant for medical use. [2017, c. 409, Pt. A, §6 (NEW) .]

E. The department shall adopt rules governing the use of a shared facility by a cultivation facility licensee that is also a registered caregiver or a registered dispensary, which must include, but are not limited to, requirements for the maintenance of a log or other record relating to the use of the shared facility space, shared equipment and shared supplies or products to ensure compliance with the requirements of this chapter and the rules adopted pursuant to this chapter and the requirements of the Maine Medical Use of Marijuana Act. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

6. Limited authorization for sale of marijuana plants and marijuana seeds by registered caregiver or registered dispensary to cultivation facility licensee. Notwithstanding any other provision of law to the contrary and subject to the requirements and restrictions of this section, for a period starting on the date that the department issues the first active cultivation facility license under section 205, subsection 4 and ending 2 years after that date, a registered caregiver or a registered dispensary may sell marijuana plants and marijuana seeds to a cultivation facility licensee that is also a registered caregiver or a registered dispensary and a cultivation facility licensee that is also a registered caregiver or a registered dispensary may purchase marijuana plants and marijuana seeds from a registered caregiver or a registered dispensary. The department

shall post on its publicly accessible website information regarding the date on which the department issues the first active cultivation facility license and the date that is 2 years after the date the first active cultivation facility license is issued.

A. Beginning on the date that the department issues the first active cultivation facility license and ending 2 years after that date, in an active cultivation facility license issued to any licensee that has demonstrated to the department's satisfaction that the licensee is also a registered caregiver or a registered dispensary, the department shall include language authorizing the licensee, at any time within the licensee's first year of licensure, to purchase an unlimited number of marijuana plants and marijuana seeds from registered caregivers and registered dispensaries. This authorization may not be included in any license issued upon renewal under section 209. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

B. A cultivation facility licensee authorized pursuant to paragraph A to purchase marijuana plants and marijuana seeds from registered caregivers and registered dispensaries that transacts such a purchase shall pay to the department the excise taxes that would have been imposed under subchapter 10 on the sale of the marijuana plants and marijuana seeds if the marijuana plants and marijuana seeds had been sold by a cultivation facility licensee to another licensee. In addition to payment of the required excise taxes under this paragraph, the cultivation facility licensee shall provide the department with an accounting of the transaction, which must include information on the registered caregiver or registered dispensary from which the licensee purchased the marijuana plants and marijuana seeds, the number of mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds purchased in the transaction and any other information required by the department by rule. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

C. A cultivation facility licensee authorized pursuant to paragraph A to purchase marijuana plants and marijuana seeds from registered caregivers and registered dispensaries may purchase marijuana plants and marijuana seeds from more than one registered caregiver or registered dispensary and may transact more than one purchase of marijuana plants and marijuana seeds from a registered caregiver or registered dispensary. A registered caregiver or registered dispensary may not sell marijuana plants and marijuana seeds to more than one cultivation facility licensee authorized pursuant to paragraph A to purchase marijuana plants and marijuana seeds from registered caregivers and registered dispensaries and may not transact more than one sale of marijuana plants and marijuana seeds to a cultivation facility licensee authorized to make such purchases pursuant to paragraph A. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

D. A cultivation facility licensee that violates this subsection or the rules adopted pursuant to this subsection is subject to the imposition by the department of monetary penalties, a license revocation or suspension and an order directing the destruction of unauthorized marijuana plants and marijuana seeds pursuant to subchapter 8 in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules. A registered caregiver or registered dispensary that violates paragraph C is subject to the revocation of its registration or other applicable penalty under the Maine Medical Use of Marijuana Act in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

The department shall adopt rules to implement this subsection.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

7. Requirements for outdoor cultivation. This subsection governs outdoor cultivation operations by a cultivation facility licensee.

A. An outdoor cultivation area within the licensed premises of a cultivation facility may not share a common wall or fence with an outdoor cultivation area within the licensed premises of a different cultivation facility. [2017, c. 409, Pt. A, §6 (NEW).]

B. The outer boundary of an outdoor cultivation area within the licensed premises of a cultivation facility must be separated by at least 20 feet from the outer boundary of an outdoor cultivation area within the licensed premises of a different cultivation facility. [2017, c. 409, Pt. A, §6 (NEW).]

C. The department shall adopt rules regarding the outdoor cultivation of adult use marijuana by a cultivation facility licensee, including, but not limited to, security requirements specific to outdoor cultivation operations and requirements for shielding outdoor cultivation operations from public view. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Sampling by other licensees. A cultivation facility licensee may provide samples of adult use marijuana cultivated at the licensed premises to a products manufacturing facility licensee or a marijuana store licensee for business or marketing purposes only. Samples provided by a cultivation facility licensee to another licensee under this subsection may not be consumed within the licensed premises of the cultivation facility. This subsection does not apply to a nursery cultivation facility licensee.

[2017, c. 409, Pt. A, §6 (NEW) .]

9. Excise tax; sales tax. A cultivation facility licensee shall ensure that the tax imposed on the sale of adult use marijuana by a cultivation facility to other licensees pursuant to subchapter 10 is paid to the department. A nursery cultivation facility licensee shall ensure that the tax imposed on the sale of adult use marijuana and adult use marijuana products under Title 36, section 1811 is collected and remitted in accordance with the requirements of Title 36, Part 3 and the rules adopted pursuant to Title 36, Part 3.

[2017, c. 409, Pt. A, §6 (NEW) .]

10. Tracking. In accordance with the requirements of section 105, a cultivation facility licensee shall track the adult use marijuana it cultivates from immature marijuana plant to the point at which the marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a products manufacturing facility, a testing facility, a marijuana store or another cultivation facility or is disposed of or destroyed.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§502. OPERATION OF PRODUCTS MANUFACTURING FACILITIES

A products manufacturing facility must be operated in accordance with the provisions of this section and the rules adopted pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

1. Manufacture only for sale or distribution to other licensees. Except as otherwise provided in this section, a products manufacturing facility may manufacture adult use marijuana and adult use marijuana products only for sale or distribution to marijuana stores or other products manufacturing facilities.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Retail sale of adult use marijuana or adult use marijuana products without separate marijuana store license prohibited. A products manufacturing facility may not sell or offer to sell adult use marijuana or adult use marijuana products to consumers unless the products manufacturing facility licensee obtains from the department a separate license to operate a marijuana store and otherwise complies with all applicable

requirements under this chapter and the rules adopted pursuant to this chapter concerning the operation of marijuana stores. A products manufacturing facility may not give away adult use marijuana, adult use marijuana products or marijuana plants to a consumer.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Cultivation of marijuana without separate cultivation facility license prohibited. A products manufacturing facility shall purchase all marijuana necessary for its manufacturing processes from a cultivation facility and may not engage in the cultivation of marijuana unless the products manufacturing facility licensee obtains from the department a separate license to operate a cultivation facility and otherwise meets all applicable requirements under this chapter and under the rules adopted pursuant to this chapter concerning the operation of cultivation facilities.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Use of shared facility for manufacture of adult use marijuana products and marijuana products for medical use. Subject to the requirements of this subsection and the rules adopted pursuant to this subsection, a products manufacturing facility licensee that is also a registered caregiver or a registered dispensary may manufacture adult use marijuana and adult use marijuana products pursuant to this chapter within the same facility in which the licensee also manufactures marijuana concentrate and marijuana products for medical use pursuant to the Maine Medical Use of Marijuana Act.

A. A products manufacturing facility licensee that manufactures adult use marijuana and adult use marijuana products within the same facility in which the licensee also manufactures marijuana concentrate and marijuana products for medical use must comply with all applicable requirements of this chapter and the rules adopted pursuant to this chapter concerning the operation of products manufacturing facilities. [2017, c. 409, Pt. A, §6 (NEW).]

B. The following items or areas within the shared facility may be shared for both the manufacturing of adult use marijuana and adult use marijuana products and the manufacturing of marijuana concentrate and marijuana products for medical use:

- (1) Manufacturing-related and nonmanufacturing-related equipment, except that manufacturing-related equipment may not be simultaneously used for the manufacturing of adult use marijuana and adult use marijuana products and the manufacturing of marijuana concentrate and marijuana products for medical use;
- (2) Manufacturing-related and nonmanufacturing-related supplies or products not containing marijuana or marijuana products and the storage areas for those supplies or products; and
- (3) General office space, bathrooms, entryways and walkways. [2017, c. 409, Pt. A, §6 (NEW) .]

C. The department shall adopt rules governing the use of a shared facility by a products manufacturing facility licensee that is also a registered caregiver or a registered dispensary, including, but not limited to, requirements for the maintenance of a log or other record relating to the use of the shared facility space, shared equipment and shared supplies or products to ensure compliance with the requirements of this chapter and the rules adopted pursuant to this chapter and the requirements of the Maine Medical Use of Marijuana Act. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

5. Sampling by employees. A products manufacturing facility licensee and its employees may sample adult use marijuana and adult use marijuana products manufactured at the licensed premises of the products manufacturing facility for the purposes of product quality control and product research and development only. The licensee may not otherwise allow the consumption of adult use marijuana or adult use marijuana products within the licensed premises. The sampling of adult use marijuana and adult use marijuana products

authorized under this subsection may not involve the consumption of marijuana or marijuana products by means of smoking the marijuana or marijuana products. For the purposes of this subsection, "smoking" has the same meaning as in Title 22, section 1541, subsection 6.

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Sampling by other licensees. A products manufacturing facility licensee may provide samples of adult use marijuana and adult use marijuana products manufactured at the licensed premises to another products manufacturing facility licensee or to a marijuana store licensee for business or marketing purposes only. Samples provided by a products manufacturing facility to other licensees under this subsection may not be consumed within the licensed premises of the products manufacturing facility.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. Marijuana extraction. Subject to the requirements and restrictions of this subsection, a products manufacturing facility licensee may manufacture marijuana concentrate by marijuana extraction using water, lipids, gases, solvents or other chemicals or chemical processes.

A. A products manufacturing facility licensee may engage in marijuana extraction using a solvent or other chemical or chemical process that is not and does not involve an inherently hazardous substance if:

- (1) The solvent or other chemical or chemical process is listed by the department by rule as approved for use in marijuana extraction; or
- (2) The products manufacturing facility licensee requests and obtains from the department written approval to engage in marijuana extraction using a solvent or other chemical or chemical process that is not and does not involve an inherently hazardous substance and that is not listed by the department by rule as approved for use in marijuana extraction.

The department shall adopt by rule a list of those solvents or other chemicals or chemical processes that are not and do not contain an inherently hazardous substance that the department approves for use in marijuana extraction by products manufacturing facilities. [2017, c. 409, Pt. A, §6 (NEW) .]

B. A products manufacturing facility licensee may not engage in marijuana extraction involving the use of any inherently hazardous substance unless:

- (1) The licensee submits to the department a request for approval of the marijuana extraction method the facility plans to engage in that includes a description of the proposed marijuana extraction method and a certification from an industrial hygienist or professional engineer following a review of the facility's storage, preparation, electrical, gas monitoring, fire suppression and exhaust systems; and
- (2) The department approves in writing the proposed marijuana extraction method.

The department, within 14 days of receipt of a request for approval under this paragraph, shall notify the products manufacturing facility licensee in writing whether the request is approved or denied. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Compliance with packaging, labeling and health and safety requirements. All adult use marijuana and adult use marijuana products sold or distributed by a products manufacturing facility must meet all applicable packaging, labeling and health and safety requirements of subchapter 7 and the rules adopted pursuant to subchapter 7.

[2017, c. 409, Pt. A, §6 (NEW) .]

9. Compliance with sanitary standards. All areas within the licensed premises of a products manufacturing facility in which adult use marijuana and adult use marijuana products are manufactured must meet all sanitary standards specified in rules adopted by the department.

[2017, c. 409, Pt. A, §6 (NEW) .]

10. Commercial kitchen license. A products manufacturing facility licensee must obtain a commercial kitchen license for any area within the licensed premises of the products manufacturing facility in which adult use marijuana and adult use marijuana products are manufactured and for which the department requires a products manufacturing facility licensee to obtain a commercial kitchen license. The department shall adopt rules requiring certain areas within the licensed premises of a products manufacturing facility to be licensed as commercial kitchens based upon the types of manufacturing processes conducted within those areas.

[2017, c. 409, Pt. A, §6 (NEW) .]

11. Refrigeration. A products manufacturing facility licensee shall store and transport in a refrigerated environment all adult use marijuana and adult use marijuana products that require refrigeration to prevent spoilage. The department shall adopt rules regarding the storage and transportation of adult use marijuana and adult use marijuana products that require refrigeration to prevent spoilage.

[2017, c. 409, Pt. A, §6 (NEW) .]

12. Testing. A products manufacturing facility licensee may test marijuana and marijuana products within its licensed premises for research and development purposes, quality control purposes and health and safety purposes. Testing performed by a products manufacturing facility licensee within its licensed premises is not subject to the requirements for testing facilities under section 503 but does not satisfy the mandatory testing requirements of subchapter 6.

[2017, c. 409, Pt. A, §6 (NEW) .]

13. Tracking. In accordance with the requirements of section 105, a products manufacturing facility licensee shall track the adult use marijuana it uses in its manufacturing processes from the point the marijuana is delivered or transferred to the products manufacturing facility by a cultivation facility to the point the marijuana or marijuana concentrate or an adult use marijuana product produced using the marijuana or marijuana concentrate is delivered or transferred to another products manufacturing facility, a testing facility or a marijuana store or is disposed of or destroyed.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§503. OPERATION OF TESTING FACILITIES

A testing facility must be operated in accordance with the provisions of this section and the rules adopted pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

1. Development, research and testing of marijuana, marijuana products and other substances. A testing facility may develop, research and test marijuana and marijuana products for:

A. That facility; [2017, c. 409, Pt. A, §6 (NEW).]

B. Another licensee; [2017, c. 409, Pt. A, §6 (NEW).]

C. A person who intends to use the marijuana or marijuana product for personal use as authorized under chapter 3; or [2017, c. 409, Pt. A, §6 (NEW).]

D. A qualifying patient, a caregiver, a registered caregiver or a registered dispensary. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

Neither this chapter nor the rules adopted pursuant to this chapter prevent a testing facility from developing, researching or testing substances that are not marijuana or marijuana products for that facility or for another person.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

2. Certification; accreditation and provisional licensure; compliance with operational and technical requirements. A testing facility may not commence or continue operation unless the testing facility:

A. Is certified for operation by the Department of Health and Human Services, Maine Center for Disease Control and Prevention, in accordance with rules adopted by the department after consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, which must allow for inspection of the proposed or operational testing facility by the department and the Department of Health and Human Services, Maine Center for Disease Control and Prevention; [2017, c. 409, Pt. A, §6 (NEW).]

B. Except as otherwise provided in this paragraph, is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department. The department shall adopt rules regarding the scope of certification, registration or accreditation required for licensure of a testing facility.

(1) The department may issue a full testing facility license to an applicant that meets all applicable requirements of this chapter and rules adopted pursuant to this chapter and that has obtained accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization from a 3rd-party accrediting body or that is certified, registered or accredited by an approved organization.

(2) The department may issue a provisional testing facility license to an applicant that otherwise meets all applicable requirements of this chapter and rules adopted pursuant to this chapter and that has applied for but not yet obtained accreditation from a 3rd-party accrediting body or that has applied for but not yet obtained certification, registration or accreditation from an approved organization. The department may not renew a provisional testing facility license more than once.

An active full or provisional testing facility license may not be issued by the department to an applicant until the applicant satisfies all applicable requirements of section 205, subsection 4; and [2017, c. 409, Pt. A, §6 (NEW).]

C. Is determined by the department to meet all operational and technical requirements for testing facilities under this chapter and the rules adopted under this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Compliance with testing protocols, standards and criteria. A testing facility shall follow all testing protocols, standards and criteria adopted by rule by the department for the testing of different forms of marijuana and marijuana products; determining batch size; sampling; testing validity; and approval and disapproval of tested marijuana and marijuana products.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Remediation and retesting. If a testing facility determines that a sample of adult use marijuana or an adult use marijuana product has failed a mandatory test required under section 602, the testing facility shall offer to the owner of that sample an opportunity for remediation and retesting in accordance with rules adopted by the department.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Record keeping. A testing facility shall maintain records of all business transactions and testing results in accordance with the record-keeping requirements of section 511 and section 602, subsection 2 and in accordance with applicable standards for licensing and accreditation under subsection 2 and testing protocols, standards and criteria adopted by the department under subsection 3.

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Disposal of marijuana and marijuana products. A testing facility shall dispose of or destroy used, unused and waste marijuana and marijuana products in accordance with rules adopted by the department.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. Notification of test results. A testing facility shall notify the department of test results in accordance with section 603.

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Independence of testing facility interest. A person with an interest in a testing facility may not be a caregiver or a registered caregiver or have an interest in a registered dispensary, a marijuana store license, a cultivation facility license or a products manufacturing facility license, but may hold or have an interest in multiple testing facility licenses. A person who is a caregiver or a registered caregiver or who has an interest in a registered dispensary, a marijuana store license, a cultivation facility license or a products manufacturing facility license may not have an interest in a testing facility license. As used in this subsection, "interest" has the same meaning as in section 205, subsection 2, paragraph B.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

9. Tracking. In accordance with the requirements of section 105, a testing facility licensee shall track all adult use marijuana and adult use marijuana products it receives from a licensee for testing purposes from the point at which the marijuana or marijuana products are delivered or transferred to the testing facility to the point at which the marijuana or marijuana products are disposed of or destroyed.

[2017, c. 409, Pt. A, §6 (NEW) .]

10. Rules. The department shall adopt rules regarding the testing of marijuana and marijuana products by testing facilities pursuant to this chapter, including, but not limited to, rules establishing acceptable testing and research practices for testing facilities, including, but not limited to, provisions relating to testing practices, methods and standards; remediation and retesting procedures; quality control analysis; equipment certification and calibration; chemical identification; testing facility record-keeping, documentation and business practices; disposal of used, unused and waste marijuana and marijuana products; and reporting of test results. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§504. OPERATION OF MARIJUANA STORES

A marijuana store must be operated in accordance with the provisions of this section and the rules adopted pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

1. Products authorized for sale. Except as provided in subsection 2, a marijuana store may sell:

A. Adult use marijuana, adult use marijuana products and marijuana paraphernalia; [2017, c. 409, Pt. A, §6 (NEW).]

B. Immature marijuana plants and seedlings; [2017, c. 409, Pt. A, §6 (NEW).]

C. Consumable products not containing marijuana, including, but not limited to, sodas, candies and baked goods; and [2017, c. 409, Pt. A, §6 (NEW).]

D. Any other nonconsumable products, including, but not limited to, apparel and marijuana-related products. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW).]

2. Prohibitions. A marijuana store may not:

A. Give away adult use marijuana, adult use marijuana products or marijuana plants or sell or give away mature marijuana plants or consumable products containing tobacco or alcohol that do not contain marijuana; [2017, c. 409, Pt. A, §6 (NEW).]

B. Except for nonedible adult use marijuana products that do not contain THC, sell to any person in any individual sales transaction an amount of adult use marijuana, adult use marijuana products or immature marijuana plants or seedlings that exceeds the personal adult use limitations of section 1501, subsection 1; [2017, c. 409, Pt. A, §6 (NEW).]

C. Sell adult use marijuana, adult use marijuana products or marijuana plants using:

(1) An automated dispensing or vending machine;

(2) A drive-through sales window;

(3) An Internet-based sales platform; or

(4) A delivery service; or [2017, c. 409, Pt. A, §6 (NEW).]

D. Sell adult use marijuana or adult use marijuana products to a person who is visibly intoxicated. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW).]

3. Compliance with packaging, labeling and health and safety requirements. All adult use marijuana and adult use marijuana products sold or offered for sale at a marijuana store must meet all applicable packaging, labeling and health and safety requirements of subchapter 7 and the rules adopted under subchapter 7.

[2017, c. 409, Pt. A, §6 (NEW).]

4. Verification of purchaser's age. A person must be 21 years of age or older to make a purchase in a marijuana store. A marijuana store may not sell any item to a person under 21 years of age.

A. Prior to initiating a sale, an employee of the marijuana store licensee shall verify that the purchaser has a valid government-issued photographic identification card, or other acceptable photographic identification, demonstrating that the purchaser is 21 years of age or older. [2017, c. 409, Pt. A, §6 (NEW).]

B. The department shall by rule determine the forms of photographic identification that a marijuana store licensee may accept when verifying a purchaser's age. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Prohibition on use of shared facility for retail sale of adult use marijuana and adult use marijuana products and marijuana and marijuana products for medical use. A marijuana store licensee that is also a registered caregiver or a registered dispensary may not sell or offer for sale to consumers adult use marijuana and adult use marijuana products pursuant to this chapter within the same facility or building in which the licensee also sells or offers for sale to qualifying patients marijuana and marijuana products for medical use pursuant to the Maine Medical Use of Marijuana Act.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

6. Signs, marketing and advertising. All signs used by and all marketing and advertising conducted by or on behalf of a marijuana store must comply with the requirements of section 702 and the rules adopted pursuant to section 702.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. Sales tax. A marijuana store licensee shall ensure that the tax imposed on the sale of adult use marijuana and adult use marijuana products to a consumer pursuant to Title 36, section 1811 is collected and remitted in accordance with the requirements of Title 36, Part 3 and the rules adopted pursuant to Title 36, Part 3.

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Tracking. In accordance with the requirements of section 105, a marijuana store licensee shall track all adult use marijuana and adult use marijuana products from the point at which the marijuana or marijuana products are delivered or transferred to the marijuana store by a cultivation facility or a products manufacturing facility to the point at which the marijuana or marijuana products are sold to a consumer, delivered or transferred to a testing facility or disposed of or destroyed.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§505. TRANSPORTATION OF ADULT USE MARIJUANA AND ADULT USE MARIJUANA PRODUCTS

A licensee and its employees may transport adult use marijuana and adult use marijuana products between the licensed premises of the licensee and the licensed premises of any other marijuana establishment. All transportation of adult use marijuana and adult use marijuana products must be documented by the licensee or an employee of the licensee in accordance with rules adopted by the department. The department shall adopt rules regarding the transportation of adult use marijuana and adult use marijuana products by licensees under this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§506. EMPLOYMENT OF PERSONS UNDER 21 YEARS OF AGE PROHIBITED

A licensee may not employ any person under 21 years of age. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§507. ENTRY INTO MARIJUANA ESTABLISHMENT BY PERSONS UNDER 21 YEARS OF AGE PROHIBITED

A person under 21 years of age may not enter the licensed premises of a marijuana establishment. A licensee shall ensure that persons under 21 years of age do not enter its licensed premises. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§508. USE OF ADULT USE MARIJUANA AND ADULT USE MARIJUANA PRODUCTS WITHIN LICENSED PREMISES

1. Employee use of marijuana or marijuana products for medical use. A licensee may allow an employee who is a qualifying patient to privately consume marijuana and marijuana products for medical use within its licensed premises.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Employee use of adult use marijuana or adult use marijuana products. Except as otherwise provided in this chapter, a licensee may not allow an employee to consume adult use marijuana or adult use marijuana products within its licensed premises or while the employee is otherwise engaged in activities within the course and scope of employment.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Other use of adult use marijuana or adult use marijuana products. Except as otherwise provided in this chapter:

A. A person may not consume adult use marijuana or adult use marijuana products within the licensed premises of a marijuana establishment; and [2017, c. 409, Pt. A, §6 (NEW).]

B. A licensee may not allow any person to consume adult use marijuana or adult use marijuana products within its licensed premises. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§509. LICENSE TO BE CONSPICUOUSLY DISPLAYED

A licensee shall ensure that the licensee's license, or a copy of that license, is at all times conspicuously displayed within its licensed premises. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§510. LIMITED ACCESS AREAS

A person may not enter or remain in any limited access area unless the person displays an individual identification card issued by the department pursuant to section 106. A licensee shall ensure that all areas of ingress and egress to limited access areas within its licensed premises are conspicuously marked and that a person is not allowed to enter or remain in any limited access area without displaying the person's individual identification card issued by the department pursuant to section 106. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§511. RECORD KEEPING AND INSPECTION OF RECORDS; AUDITS

1. Record keeping; inspection of records. A licensee shall maintain a complete set of all records of the licensee's business transactions, which must be open to inspection and examination by the department upon demand and without notice during all business hours. Records must be maintained by a licensee at a minimum for a period comprising the current tax year and the 2 immediately preceding tax years.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Additional information may be required. The department may require a licensee to furnish any additional information necessary for the proper administration of this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Audit. The department may require a licensee to submit to an audit of the licensee's business records. If the department requires a licensee to submit to an audit, the licensee shall provide the auditor selected by the department with access to all business records of the licensee and the cost of the audit must be paid by the licensee.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Confidentiality. This subsection governs the confidentiality of records under this section.

A. Documents of a licensee inspected or examined by the department pursuant to this section are confidential and may not be disclosed except as needed in a civil or criminal proceeding to enforce any provision of this chapter and the rules adopted pursuant to this chapter or any criminal law. [2017, c. 409, Pt. A, §6 (NEW).]

B. Audit working papers are confidential and may not be disclosed to any person outside the department, except that audit working papers may be disclosed to the licensee subject to the audit. A final audit report is a public record for the purposes of Title 1, chapter 13, subchapter 1. For the purposes of this paragraph, "audit working papers" means all documentation and other information acquired, prepared or maintained by the department and the auditor selected by the department during the conduct of the audit, including, but not limited to, draft reports and portions of draft reports. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§512. INSPECTION OF LICENSED PREMISES; TESTING AND SAMPLING FOR PRODUCT QUALITY CONTROL

1. Inspections. A licensee shall submit to an inspection of its licensed premises, including, but not limited to, any places of storage and any locked areas, upon demand and without notice during all business hours and other times of apparent activity by the department, a criminal justice agency or an official authorized by the municipality in which the licensed premises are located.

For the purposes of this subsection, "municipality" has the same meaning as in section 212.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Testing and sampling for product quality control. A licensee shall submit to the sampling and testing of adult use marijuana or adult use marijuana products within its possession, upon demand and without notice during all business hours by the department for the purposes of product quality control. The department shall adopt rules governing the sampling and testing of adult use marijuana and adult use marijuana products under this subsection, consistent with the requirements of subchapter 6. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§513. LICENSEE COMPLIANCE WITH REGULATORY REQUIREMENTS

A licensee, as a condition of licensure under this chapter, shall comply with all applicable provisions of this chapter and all applicable provisions of the rules adopted pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 6: TESTING OF MARIJUANA AND MARIJUANA PRODUCTS

§601. TESTING PROGRAM ESTABLISHED

The department shall establish a testing program for adult use marijuana and adult use marijuana products. Except as otherwise provided in this subchapter, the program must require a licensee, prior to selling or distributing adult use marijuana or an adult use marijuana product to a consumer or to another licensee, to submit the marijuana or marijuana product to a testing facility for testing to ensure that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and to ensure correct labeling. The department shall adopt rules establishing a testing program pursuant to this section, rules identifying the types of contaminants that are injurious to health for which marijuana and marijuana products must be tested under this subchapter and rules regarding the maximum level of allowable contamination for each contaminant. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§602. MANDATORY TESTING

A licensee may not sell or distribute adult use marijuana or an adult use marijuana product to a consumer or to another licensee under this chapter unless the marijuana or marijuana product has been tested pursuant to this subchapter and the rules adopted pursuant to this subchapter and that mandatory testing has demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required. [2017, c. 409, Pt. A, §6 (NEW).]

1. Scope of mandatory testing. Mandatory testing of adult use marijuana and adult use marijuana products under this section must include, but is not limited to, testing for:

- A. Residual solvents, poisons and toxins; [2017, c. 409, Pt. A, §6 (NEW).]
- B. Harmful chemicals; [2017, c. 409, Pt. A, §6 (NEW).]
- C. Dangerous molds and mildew; [2017, c. 409, Pt. A, §6 (NEW).]
- D. Harmful microbes, including, but not limited to, Escherichia coli and salmonella; [2017, c. 409, Pt. A, §6 (NEW).]
- E. Pesticides, fungicides and insecticides; and [2017, c. 409, Pt. A, §6 (NEW).]
- F. THC potency, homogeneity and cannabinoid profiles to ensure correct labeling. [2017, c. 409, Pt. A, §6 (NEW).]

The department may temporarily waive mandatory testing requirements under this section for any contaminant or factor for which the department has determined that there exists no licensed testing facility in the State capable of and certified to perform such testing.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Record keeping. A licensee shall maintain a record of all mandatory testing that includes a description of the adult use marijuana or adult use marijuana product provided to the testing facility, the identity of the testing facility and the results of the mandatory test.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Testing process, protocols and standards. The department shall establish by rule processes, protocols and standards for mandatory and other testing of marijuana and marijuana products that conform with the best practices generally used within the marijuana industry.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§603. NOTIFICATION REQUIREMENTS

1. Notification of testing results required. If the results of a mandatory test conducted pursuant to section 602 indicate that the tested adult use marijuana or adult use marijuana product exceeds the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required, the testing facility immediately shall quarantine, document and properly destroy the marijuana or marijuana product, except when the owner of the tested marijuana or marijuana product has successfully undertaken remediation and retesting, and within 30 days of completing the test shall notify the department of the test results.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Notification of testing results not required. A testing facility is not required to notify the department of the results of any test:

A. Conducted on adult use marijuana or an adult use marijuana product at the direction of a licensee pursuant to section 602 that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required; [2017, c. 409, Pt. A, §6 (NEW).]

B. Conducted on adult use marijuana or an adult use marijuana product at the direction of a licensee for research and development purposes only, so long as the licensee notifies the testing facility prior to the performance of the test that the testing is for research and development purposes only; [2017, c. 409, Pt. A, §6 (NEW).]

C. Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee; or [2017, c. 409, Pt. A, §6 (NEW).]

D. Conducted on a substance that is not marijuana or a marijuana product. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§604. SAMPLING FOR TESTING

If a test to be performed by a testing facility is a mandatory test under section 602, an employee or designee of the testing facility must perform the sampling required for the test. If a test to be performed by a testing facility is not a mandatory test, the owner of the marijuana or marijuana product, or a designee of the owner, may perform the sampling required for the test. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§605. ADDITIONAL TESTING NOT REQUIRED

Notwithstanding section 602, a licensee may sell or furnish to a consumer or to another licensee adult use marijuana or an adult use marijuana product that the licensee has not submitted for testing in accordance with this subchapter and rules adopted pursuant to this subchapter if: [2017, c. 409, Pt. A, §6 (NEW).]

1. Prior testing. The marijuana or marijuana product has previously undergone testing in accordance with this subchapter and rules adopted pursuant to this subchapter at the direction of another licensee and that testing demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required;

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Proper documentation. The mandatory testing process and the test results for the marijuana or marijuana product are documented in accordance with the requirements of this chapter and all applicable rules adopted pursuant to this chapter;

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Tracking maintained. Tracking from immature marijuana plant to the point of retail sale has been maintained for the marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or to a consumer can be easily identified; and

[2017, c. 409, Pt. A, §6 (NEW) .]

4. No subsequent processing, manufacturing or alteration. Since the performance of the prior testing under subsection 1, the marijuana or marijuana product has not undergone any further processing, manufacturing or alteration, other than the packaging and labeling of the marijuana or marijuana product for sale.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§606. COORDINATION WITH TESTING PROGRAM AND RULES FOR MARIJUANA AND MARIJUANA PRODUCTS FOR MEDICAL USE

In adopting rules and regulating the testing of adult use marijuana and adult use marijuana products under this subchapter, the department shall ensure that, when necessary and practicable, the regulation of the testing of adult use marijuana and adult use marijuana products under this subchapter is consistent with the regulation of the testing of marijuana and marijuana products for medical use under the Maine Medical Use of Marijuana Act. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 7: LABELING AND PACKAGING; SIGNS, ADVERTISING AND MARKETING; HEALTH AND SAFETY

§701. LABELING AND PACKAGING

1. Labeling requirements. Adult use marijuana and adult use marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter must be labeled with the following information, as applicable based on the marijuana or marijuana product to be sold:

A. The license numbers of the cultivation facility, the products manufacturing facility and the marijuana store where the adult use marijuana or adult use marijuana product was cultivated, manufactured and offered for sale; [2017, c. 409, Pt. A, §6 (NEW).]

B. An identity statement and universal symbol; [2017, c. 409, Pt. A, §6 (NEW).]

C. Health and safety warning labels as required by rules adopted by the department after consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention; [2017, c. 409, Pt. A, §6 (NEW).]

D. The batch number; [2017, c. 409, Pt. A, §6 (NEW).]

E. A net weight statement; [2017, c. 409, Pt. A, §6 (NEW).]

F. Information on the THC potency of the marijuana or marijuana product and the potency of such other cannabinoids or other chemicals in the marijuana or marijuana product, including, but not limited to, cannabidiol; [2017, c. 409, Pt. A, §6 (NEW).]

G. Information on the amount of THC and cannabidiol per serving of the marijuana or marijuana product and, for edible marijuana products, the number of servings per package; [2017, c. 409, Pt. A, §6 (NEW).]

H. Information on gases, solvents and chemicals used in marijuana extraction; [2017, c. 409, Pt. A, §6 (NEW).]

I. Instructions on usage; [2017, c. 409, Pt. A, §6 (NEW).]

J. For adult use marijuana products:

- (1) The amount of marijuana concentrate per serving of the product, as measured in grams, and the amount of marijuana concentrate per package of the product, as measured in grams;
- (2) A list of ingredients and possible allergens; and
- (3) A recommended use date or expiration date; [2017, c. 409, Pt. A, §6 (NEW).]

K. For edible marijuana products, a nutritional fact panel; and [2017, c. 409, Pt. A, §6 (NEW).]

L. Any other information required by rule by the department. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW).]

2. Packaging requirements. Adult use marijuana and adult use marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter must be packaged in the following manner, as applicable based on the marijuana or marijuana product to be sold:

A. Adult use marijuana and adult use marijuana products must be prepackaged in child-resistant and tamper-evident packaging or must be placed in child-resistant and tamper-evident packaging at the final point of sale to a consumer; [2017, c. 409, Pt. A, §6 (NEW).]

B. Adult use marijuana and adult use marijuana products must be prepackaged in opaque packaging or an opaque container or must be placed in opaque packaging or an opaque container at the final point of sale to a consumer; [2017, c. 409, Pt. A, §6 (NEW).]

C. Packaging for multiserving liquid adult use marijuana products must include an integral measurement component and a child-resistant cap; and [2017, c. 409, Pt. A, §6 (NEW).]

D. Packaging must conform to all other applicable requirements and restrictions imposed by rule by the department. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW).]

3. Other approved labeling and packaging. Adult use marijuana and adult use marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter may include on the label or the packaging of the marijuana or marijuana product:

A. A statement of compatibility with dietary practices; [2017, c. 409, Pt. A, §6 (NEW).]

B. Depictions of geometric shapes or marijuana leaves; [2017, c. 409, Pt. A, §6 (NEW).]

C. Use of the terms "organic," "organically cultivated" or "organically grown" in accordance with requirements regarding the use of such terms as adopted by rule by the department; and [2017, c. 409, Pt. A, §6 (NEW).]

D. Any other information that has been preapproved by the department. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW).]

4. Labeling and packaging prohibitions. Adult use marijuana and adult use marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter:

A. May not be labeled or packaged in violation of a federal trademark law or regulation or in a manner that would cause a reasonable consumer confusion as to whether the marijuana or marijuana product was a trademarked product; [2017, c. 409, Pt. A, §6 (NEW).]

B. May not be labeled or packaged in a manner that is specifically designed to appeal particularly to a person under 21 years of age; [2017, c. 409, Pt. A, §6 (NEW).]

C. May not be labeled or packaged in a manner that obscures identifying information on the label or uses a false or deceptive label; [2017, c. 409, Pt. A, §6 (NEW).]

D. May not be sold or offered for sale using a label or packaging that depicts a human, animal or fruit; and [2017, c. 409, Pt. A, §6 (NEW).]

E. May not be labeled or packaged in violation of any other labeling or packaging requirement or restriction imposed by rule by the department. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§702. SIGNS, ADVERTISING AND MARKETING

1. Prohibitions. Signs, advertising and marketing used by or on behalf of a licensee:

A. May not be misleading, deceptive or false; [2017, c. 409, Pt. A, §6 (NEW).]

B. May not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal particularly to persons under 21 years of age; [2017, c. 409, Pt. A, §6 (NEW).]

C. May not be placed or otherwise used within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality by ordinance or other regulation, or, in the case of a town, plantation or township located in the unorganized and deorganized areas, the Maine Land Use Planning Commission, chooses to prohibit the placement or use of signs or advertising by or on behalf of a marijuana establishment at distances greater than or less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that greater or lesser distance applies. As used in this paragraph, "school" has the same meaning as in section 402, subsection 2, paragraph A; and [2017, c. 409, Pt. A, §6 (NEW).]

D. May not violate any other requirement or restriction on signs, advertising and marketing imposed by the department by rule pursuant to subsection 2. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Rules on signs, advertising and marketing. The department shall adopt rules regarding the placement and use of signs, advertising and marketing by or on behalf of a licensee, which may include, but are not limited to:

A. A prohibition on health or physical benefit claims in advertising or marketing, including, but not limited to, health or physical benefit claims on the label or packaging of adult use marijuana or an adult use marijuana product; [2017, c. 409, Pt. A, §6 (NEW).]

B. A prohibition on unsolicited advertising or marketing on the Internet, including, but not limited to, banner advertisements on mass-market websites; [2017, c. 409, Pt. A, §6 (NEW).]

C. A prohibition on opt-in advertising or marketing that does not permit an easy and permanent opt-out feature; and [2017, c. 409, Pt. A, §6 (NEW).]

D. A prohibition on advertising or marketing directed toward location-based devices, including, but not limited to, cellular telephones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§703. OTHER HEALTH AND SAFETY REQUIREMENTS AND RESTRICTIONS; RULES

1. Requirements and restrictions for edible marijuana products. In addition to all other applicable provisions of this subchapter, edible marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter:

A. May be manufactured in geometric shapes or in the shape of a marijuana leaf; [2017, c. 409, Pt. A, §6 (NEW).]

B. Must be manufactured in a manner that results in the cannabinoid content within the product being homogeneous throughout the product or throughout each element of the product that has a cannabinoid content; [2017, c. 409, Pt. A, §6 (NEW).]

C. Must be manufactured in a manner that results in the amount of marijuana concentrate within the product being homogeneous throughout the product or throughout each element of the product that contains marijuana concentrate; [2017, c. 409, Pt. A, §6 (NEW).]

D. Must have a universal symbol stamped or embossed on each serving of the product; [2017, c. 409, Pt. A, §6 (NEW).]

E. May not be manufactured in the distinct shape of a human, animal or fruit; [2017, c. 409, Pt. A, §6 (NEW).]

F. May not contain more than 10 milligrams of THC per serving of the product and may not contain more than 100 milligrams of THC per package of the product; [2017, c. 409, Pt. A, §6 (NEW).]

G. May not contain additives that are:

(1) Toxic or harmful to human beings;

(2) Specifically designed to make the product more addictive or that are misleading to consumers;
or

(3) Specifically designed to make the product appeal particularly to a person under 21 years of age; and [2017, c. 409, Pt. A, §6 (NEW).]

H. May not involve the addition of marijuana to a trademarked food or drink product, except when the trademarked product is used as a component of or ingredient in the edible marijuana product and the edible marijuana product is not advertised or described for sale as containing the trademarked product. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Health and safety rules. The department shall adopt labeling, packaging and other necessary health and safety rules for adult use marijuana and adult use marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter. Rules adopted pursuant to this subsection must

establish mandatory health and safety standards applicable to the cultivation of adult use marijuana, the manufacture of adult use marijuana products and the packaging and labeling of adult use marijuana and adult use marijuana products sold by a licensee to a consumer. Such rules must address, but are not limited to:

- A. Requirements for the storage, warehousing and transportation of adult use marijuana and adult use marijuana products by licensees; [2017, c. 409, Pt. A, §6 (NEW).]
- B. Sanitary standards for marijuana establishments, including, but not limited to, sanitary standards for the manufacture of adult use marijuana and adult use marijuana products; and [2017, c. 409, Pt. A, §6 (NEW).]
- C. Limitations on the display of adult use marijuana and adult use marijuana products at marijuana stores. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§704. COORDINATION WITH LABELING AND PACKAGING RULES FOR MARIJUANA AND MARIJUANA PRODUCTS FOR MEDICAL USE

In adopting rules and regulating the labeling and packaging of adult use marijuana and adult use marijuana products under this subchapter, the department shall ensure that, when necessary and practicable, the regulation of the labeling and packaging of adult use marijuana and adult use marijuana products under this subchapter is consistent with the regulation of the labeling and packaging of marijuana and marijuana products for medical use under the Maine Medical Use of Marijuana Act. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 8: LICENSE VIOLATIONS; PENALTIES

§801. DEPARTMENT MAY IMPOSE PENALTY ON LICENSEE FOR LICENSE VIOLATION; MAINE ADMINISTRATIVE PROCEDURE ACT APPLIES

The department, on its own initiative or on complaint and after investigation, notice and the opportunity for a public hearing, by written order may impose a monetary penalty on a licensee or suspend or revoke the licensee's license for a violation by the licensee or by an agent or employee of the licensee of the provisions of this chapter, the rules adopted pursuant to this chapter or the terms, conditions or provisions of the licensee's license. [2017, c. 409, Pt. A, §6 (NEW).]

1. Additional penalties may be imposed. Any penalties imposed by the department on a licensee pursuant to this subchapter are in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Maine Administrative Procedure Act; appeals. Except as otherwise provided in this subchapter or in rules adopted pursuant to this subchapter, the imposition of a monetary penalty, suspension or revocation on a licensee by the department, including, but not limited to, the provision of notice and the conduct of hearings, is governed by the Maine Administrative Procedure Act. A final order of the department imposing

a monetary penalty on a licensee or suspending or revoking the licensee's license is a final agency action, as defined in Title 5, section 8002, subsection 4, and the licensee may appeal that final order to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§802. PENALTIES

1. Monetary penalties. A monetary penalty imposed by the department on a licensee pursuant to this subchapter may not exceed \$100,000 per license violation.

A. The department shall adopt rules setting forth potential amounts of monetary penalties to be imposed on a licensee based upon specific categories of unauthorized conduct by the licensee, including major and minor license violations, as follows:

(1) Not more than \$10,000 per minor license violation;

(2) Except as provided in subparagraph (3), not more than \$50,000 per major license violation; and

(3) Not more than \$100,000 per major license violation affecting public safety. [2017, c. 409, Pt. A, §6 (NEW) .]

B. All monetary penalties imposed pursuant to this subchapter must be paid by the licensee to the department in the form of cash or in the form of a certified check or a cashier's check payable to the department. All monetary penalties paid to the department pursuant to this subchapter must be deposited into the Adult Use Marijuana Regulatory Coordination Fund established in section 1102. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. License suspension. A licensee whose license has been suspended pursuant to this subchapter may not, for the duration of the period of suspension, engage in any activities relating to the operation of the marijuana establishment the licensee is licensed to operate.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. License revocation. A licensee whose license has been revoked pursuant to this subchapter shall cease immediately all activities relating to the operation of the marijuana establishment the licensee was previously licensed to operate and shall ensure that all adult use marijuana and adult use marijuana products in the possession of the licensee are forfeited to the department for destruction in accordance with section 803.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Imposition of monetary penalty upon suspension or revocation. In addition to suspending or revoking a licensee's license, the department may impose a monetary penalty on the licensee consistent with this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§803. DISPOSITION OF UNAUTHORIZED MARIJUANA OR MARIJUANA PRODUCTS OF LICENSEE

1. Order; destruction of marijuana or marijuana products. If the department issues a final order imposing a monetary penalty on or a license suspension or revocation against a licensee pursuant to this subchapter, the department may specify in the order, in addition to any other penalties imposed in the order, that all or a portion of the marijuana or marijuana products in the possession of the licensee are not authorized under this chapter and are subject to destruction. A licensee subject to a final order directing the destruction of marijuana or marijuana products in the possession of the licensee shall forfeit the marijuana and marijuana products described in the order to the department for destruction.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Investigation. If the department is notified by a criminal justice agency that there is a pending investigation of a licensee subject to an order imposed under subsection 1, the department may not destroy any marijuana or marijuana products of that licensee until the destruction is approved by the criminal justice agency.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§804. RULES

The department shall adopt rules governing the imposition of monetary penalties, suspensions and revocations under this subchapter, which must include, but are not limited to, provisions relating to notice and conduct of hearings consistent with the Maine Administrative Procedure Act and provisions relating to the disposition of unauthorized marijuana and marijuana products of a licensee. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 9: MARIJUANA ADVISORY COMMISSION

§901. ESTABLISHMENT

The Marijuana Advisory Commission, established by Title 5, section 12004-I, subsection 52-C and referred to in this subchapter as "the commission," is created for the purpose of conducting a continuing study of the laws relating to marijuana and reporting to the Legislature its findings and recommendations on an annual basis. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§902. MEMBERSHIP; CHAIRS; TERMS; VACANCIES; QUORUM

1. Membership. The commission consists of the following 15 members:

A. Two members of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature, appointed by the President of the Senate; [2017, c. 409, Pt. A, §6 (NEW) .]

B. Two members of the House of Representatives, including members from each of the 2 parties holding the largest number of seats in the Legislature, appointed by the Speaker of the House of Representatives; [2017, c. 409, Pt. A, §6 (NEW).]

C. The Commissioner of Administrative and Financial Services or the commissioner's designee; [2017, c. 409, Pt. A, §6 (NEW).]

D. The Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee; [2017, c. 409, Pt. A, §6 (NEW).]

E. The Commissioner of Health and Human Services or the commissioner's designee; [2017, c. 409, Pt. A, §6 (NEW).]

F. The Commissioner of Labor or the commissioner's designee; [2017, c. 409, Pt. A, §6 (NEW).]

G. The Commissioner of Public Safety or the commissioner's designee; [2017, c. 409, Pt. A, §6 (NEW).]

H. The following 3 members, appointed by the President of the Senate:

- (1) A representative of a statewide association representing prosecutors;
- (2) A representative of a statewide association representing the medical marijuana industry; and
- (3) A member of the public; and [2017, c. 409, Pt. A, §6 (NEW).]

I. The following 3 members, appointed by the Speaker of the House of Representatives:

- (1) A representative of a statewide association representing the adult use marijuana industry;
- (2) A member of the public with demonstrated expertise and credentials in public health policy; and
- (3) A member of the public. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW).]

2. Chairs. The first-named Senate member is the Senate chair and the first-named House member is the House chair of the commission.

[2017, c. 409, Pt. A, §6 (NEW).]

3. Terms. Members of the commission who are Legislators serve during the term of office for which they were elected. Other members of the commission serve for a term of 2 years and may be reappointed.

[2017, c. 409, Pt. A, §6 (NEW).]

4. Vacancies. In the event of a vacancy on the commission, the member's unexpired term must be filled through an appointment by the appointing authority for the vacant seat.

[2017, c. 409, Pt. A, §6 (NEW).]

5. Quorum. A quorum of the commission consists of 8 members.

[2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§903. DUTIES

1. Review of laws and rules. The commission shall review laws and rules pertaining to the adult use marijuana and medical marijuana industries in this State and any other provision of law or rule pertaining to marijuana, including, but not limited to, laws and rules regarding public health, public safety, juvenile and adult criminal and civil offenses, workplace drug testing, workplace safety, motor vehicle safety, landlords and tenants, the personal use of marijuana and taxes and fees paid to the State by applicants and registered caregivers and registered dispensaries under the Maine Medical Use of Marijuana Act and applicants and licensees under this Act.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

2. Solicitation of public comment regarding law enforcement contacts with citizens. The commission shall, on an annual basis, solicit public comment regarding contacts between law enforcement officers and citizens following the initiation of an adult use marijuana market in the State that involve the personal adult use of marijuana and marijuana products and the home cultivation of marijuana for personal adult use. The public comments solicited under this subsection and any findings or recommendations by the commission relating to those solicited comments must be included in the annual report under subsection 5.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Submission of recommendations to Legislature. The commission shall submit to the Legislature such recommended changes to the laws as it considers appropriate to:

A. Preserve the public health and safety and the well-being of the citizens of the State; [2017, c. 409, Pt. A, §6 (NEW).]

B. Preserve the intent of the citizens of the State as expressed in passage of the Marijuana Legalization Act, former Title 7, chapter 417; and [2017, c. 409, Pt. A, §6 (NEW).]

C. Standardize, coordinate or integrate the adult use marijuana and medical marijuana laws, rules and programs in the State, including, but not limited to, recommended changes regarding the standardization, coordination or integration of the laws and rules relating to the testing, labeling and packaging of adult use marijuana and adult use marijuana products and marijuana and marijuana products for medical use. [2017, c. 409, Pt. A, §6 (NEW).]

The commission shall include any recommended changes in its annual report to the Legislature pursuant to subsection 5.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Public hearings. The commission may hold public hearings at such times and at such places as the commission considers appropriate in order to take testimony concerning the use, possession and distribution of marijuana, law enforcement contacts with citizens as described in subsection 2, the alignment of this Act with other provisions of law and any other matter relating to the duties of the commission.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Report to Legislature. Beginning January 15, 2020, and annually thereafter, the commission shall submit a report containing its findings and recommendations, together with any suggested legislation, to the joint standing committees of the Legislature having jurisdiction over health and human services matters and adult use marijuana matters.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§904. ORGANIZATION; STAFFING; CONSULTATION

1. Organization; staffing. The Legislative Council shall provide staffing services to the commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session. The Executive Director of the Legislative Council shall notify all members of the commission of the time and place of the first meeting.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Consultation. Whenever the commission considers it appropriate, it may seek the advice of consultants or experts, including representatives of the legislative and executive branches of State Government, in fields related to its duties.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§905. REIMBURSEMENT OF EXPENSES

Members of the commission must be compensated in accordance with Title 5, chapter 379. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 10: EXCISE TAX ON ADULT USE MARIJUANA

§1001. EXCISE TAX IMPOSED

Beginning on the first day of the calendar month in which adult use marijuana may be sold in the State by a cultivation facility under this chapter, an excise tax on adult use marijuana is imposed in accordance with this subchapter. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Excise tax on marijuana flower and mature marijuana plants. A cultivation facility licensee shall pay an excise tax of \$335 per pound of marijuana flower or mature marijuana plants sold to other licensees in the State.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Excise tax on marijuana trim. A cultivation facility licensee shall pay an excise tax of \$94 per pound of marijuana trim sold to other licensees in the State.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Excise tax on immature marijuana plants and seedlings. A cultivation facility licensee shall pay an excise tax of \$1.50 per immature marijuana plant or seedling sold to other licensees in the State.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Excise tax on marijuana seeds. A cultivation facility licensee shall pay an excise tax of \$0.30 per marijuana seed sold to other licensees in the State.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§1002. PAYMENT OF EXCISE TAX

On or before the last day of each month, a cultivation facility licensee shall pay to the department all excise taxes due under this subchapter on the adult use marijuana sold by the cultivation facility licensee to other licensees during the preceding calendar month. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§1003. APPLICATION OF EXCISE TAX REVENUE

All excise tax revenue collected by the department pursuant to this subchapter on the sale of adult use marijuana must be deposited into the General Fund, except that, on or before the last day of each month, the department shall transfer 12% of the excise tax revenue received by the department during the preceding month pursuant to this subchapter to the Adult Use Marijuana Public Health and Safety Fund established under section 1101. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 11: ADULT USE MARIJUANA PUBLIC HEALTH AND SAFETY FUND; ADULT USE MARIJUANA REGULATORY COORDINATION FUND

§1101. ADULT USE MARIJUANA PUBLIC HEALTH AND SAFETY FUND

The Adult Use Marijuana Public Health and Safety Fund, referred to in this section as "the fund," is established as a dedicated, nonlapsing fund within the department for the purposes specified in this section. [2017, c. 409, Pt. A, §6 (NEW).]

1. Sources of fund. The State Controller shall credit to the fund:

A. Money received from the excise tax imposed on the sale of adult use marijuana by a cultivation facility licensee to other licensees pursuant to subchapter 10 in the amount required under section 1003; [2017, c. 409, Pt. A, §6 (NEW).]

B. Money received from the sales tax imposed on the sale of adult use marijuana and adult use marijuana products by a marijuana store licensee to a consumer pursuant to Title 36, section 1811 in the amount required under Title 36, section 1818; [2017, c. 409, Pt. A, §6 (NEW).]

C. All money from any other source, whether public or private, designated for deposit into or credited to the fund; and [2017, c. 409, Pt. A, §6 (NEW).]

D. Interest earned or other investment income on balances in the fund. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Uses of fund. Money credited to the fund pursuant to subsection 1 may be used by the department as provided in this subsection.

A. No more than 50% of all money credited to the fund may be expended by the department to fund public health and safety awareness and education programs, initiatives, campaigns and activities relating to the sale and use of adult use marijuana and adult use marijuana products conducted in accordance with section 108 by the department, another state agency or department or any other public or private entity. [2017, c. 409, Pt. A, §6 (NEW).]

B. No more than 50% of all money credited to the fund may be expended by the department to fund enhanced law enforcement training programs relating to the sale and use of adult use marijuana and adult use marijuana products for local, county and state law enforcement officers conducted in accordance with section 109 by the department, the Maine Criminal Justice Academy, another state agency or department or any other public or private entity. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Application of fund to departmental expenses prohibited. Money in the fund may not be applied to any expenses incurred by the department in implementing, administering or enforcing this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§1102. ADULT USE MARIJUANA REGULATORY COORDINATION FUND

The Adult Use Marijuana Regulatory Coordination Fund, referred to in this section as "the fund," is established as a dedicated, nonlapsing Other Special Revenue Funds account in the department. The fund is administered and used by the commissioner for the purposes of adopting rules under this chapter and for the purposes of implementing, administering and enforcing this chapter. The commissioner may expend money in the fund to enter into contracts with consultants and employ staff, as determined necessary by the commissioner, conduct meetings with stakeholders and conduct any other activities related to the implementation, administration and enforcement of this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Chapter 3: PERSONAL ADULT USE OF MARIJUANA AND MARIJUANA PRODUCTS; HOME CULTIVATION OF MARIJUANA FOR PERSONAL ADULT USE

§1501. PERSONAL ADULT USE OF MARIJUANA AND MARIJUANA PRODUCTS

1. Authorized conduct. Except as otherwise authorized by this Title, a person 21 years of age or older may:

- A. Use, possess or transport marijuana paraphernalia; [2017, c. 409, Pt. A, §6 (NEW).]
- B. Use, possess or transport at any one time up to 2 1/2 ounces of marijuana or 2 1/2 ounces of a combination of marijuana and marijuana concentrate that includes no more than 5 grams of marijuana concentrate; [2017, c. 409, Pt. A, §6 (NEW).]
- C. Transfer or furnish, without remuneration, to a person 21 years of age or older up to 2 1/2 ounces of marijuana or 2 1/2 ounces of a combination of marijuana and marijuana concentrate that includes no more than 5 grams of marijuana concentrate; [2017, c. 409, Pt. A, §6 (NEW).]
- D. Transfer or furnish, without remuneration, to a person 21 years of age or older up to 6 immature marijuana plants or seedlings; [2017, c. 409, Pt. A, §6 (NEW).]
- E. Subject to the requirements and restrictions of section 1502, possess, cultivate or transport at any one time up to 3 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings and possess all the marijuana produced by such plants at the person's place of residence or at the location where the marijuana was cultivated; [2017, c. 409, Pt. A, §6 (NEW).]
- F. Subject to the limitations imposed under paragraph B, purchase up to 2 1/2 ounces of adult use marijuana or 2 1/2 ounces of a combination of adult use marijuana and marijuana concentrate that includes no more than 5 grams of marijuana concentrate from a marijuana store; and [2017, c. 409, Pt. A, §6 (NEW).]
- G. Subject to the limitations imposed under paragraph E, purchase up to 12 immature marijuana plants or seedlings from a nursery cultivation facility as described in section 301, subsection 5 or from a marijuana store. [2017, c. 409, Pt. A, §6 (NEW).]

For the purposes of this subsection, "remuneration" includes a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which marijuana, marijuana products or marijuana plants are transferred or furnished by that person to another person.

[2017, c. 409, Pt. A, §6 (NEW).]

2. Consumption of marijuana and marijuana products; violation. The provisions of this subsection apply to the consumption of marijuana or marijuana products by a person 21 years of age or older.

- A. A person 21 years of age or older may consume marijuana or marijuana products only if that person is:
 - (1) In a private residence, including curtilage; or
 - (2) On private property, not generally accessible by the public, and the person is explicitly permitted to consume marijuana or marijuana products on the property by the owner of the property. [2017, c. 409, Pt. A, §6 (NEW).]
- B. A person 21 years of age or older may not consume marijuana or marijuana products:

- (1) If that person is the operator of a vehicle on a public way or a passenger in the vehicle. As used in this subparagraph, "vehicle" has the same meaning as in Title 29-A, section 101, subsection 91;
- (2) In a private residence or on private property used as a day care or baby-sitting service during the hours in which the residence or property is being operated as a day care or baby-sitting service;
- (3) By means of smoking the marijuana or marijuana product in a designated smoking area as provided under the Workplace Smoking Act of 1985; or
- (4) By means of smoking the marijuana or marijuana product in a public place or in a public area where smoking is prohibited under Title 22, chapter 262. [2017, c. 409, Pt. A, §6 (NEW).]

C. A person who violates this subsection commits a civil violation for which a fine of not more than \$100 may be adjudged in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§1502. HOME CULTIVATION OF MARIJUANA FOR PERSONAL ADULT USE

The provisions of this section apply to the home cultivation of marijuana for personal adult use by a person 21 years of age or older, but do not apply to the cultivation of marijuana for medical use by a qualifying patient, a caregiver, a registered caregiver or a registered dispensary as authorized by the Maine Medical Use of Marijuana Act. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

1. Cultivation of up to 3 mature marijuana plants per person for personal adult use authorized.

Subject to the applicable requirements and restrictions of subsections 2, 3 and 4, a person 21 years of age or older may cultivate up to 3 mature marijuana plants, up to 12 immature marijuana plants and an unlimited number of seedlings for personal adult use:

- A. On a parcel or tract of land on which the person is domiciled; [2017, c. 409, Pt. A, §6 (NEW).]
- B. On a parcel or tract of land owned by the person on which the person is not domiciled; or [2017, c. 409, Pt. A, §6 (NEW).]
- C. On a parcel or tract of land not owned by the person and on which the person is not domiciled so long as the owner of the parcel or tract of land by written agreement permits the cultivation and care of the marijuana plants on the parcel or tract of land by that person. [2017, c. 409, Pt. A, §6 (NEW).]

A person may cultivate the marijuana plants and seedlings authorized under this subsection at multiple locations so long as such cultivation activities otherwise meet all requirements and restrictions of this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Cultivation requirements. A person who cultivates marijuana for personal adult use pursuant to this section shall:

- A. Ensure that the marijuana is not visible from a public way without the use of aircraft or binoculars or other optical aids; [2017, c. 409, Pt. A, §6 (NEW).]
- B. Take reasonable precautions to prevent unauthorized access by a person under 21 years of age; [2017, c. 409, Pt. A, §6 (NEW).]

C. Attach to each mature marijuana plant and each immature marijuana plant a legible tag that includes the person's name, driver's license number or identification number, a notation that the marijuana plant is being grown for personal adult use as authorized under this section and, if the cultivation is on a parcel or tract of land owned by another person, the name of that owner; and [2017, c. 409, Pt. A, §6 (NEW).]

D. Comply with all applicable local regulations relating to the home cultivation of marijuana for personal adult use that have been adopted in accordance with subsection 3 or 4. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Local regulation of home cultivation of marijuana for personal adult use within municipalities.

In accordance with this subchapter and pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate the home cultivation of marijuana for personal adult use within the municipality.

A. A municipality may adopt an ordinance or other regulation limiting the total number of mature marijuana plants that may be cultivated on any one parcel or tract of land within the municipality so long as that ordinance or regulation allows for the cultivation of 3 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on a parcel or tract of land. [2017, c. 409, Pt. A, §6 (NEW).]

B. A municipality may not generally prohibit the home cultivation of marijuana for personal adult use within the municipality, restrict the areas within the municipality in which home cultivation of marijuana for personal adult use is allowed or charge a license or other fee to a person relating to the home cultivation of marijuana for personal adult use within the municipality. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Local regulation of home cultivation of marijuana for personal adult use within town, plantation or township in unorganized and deorganized areas. In accordance with this subchapter and pursuant to the authority granted under Title 12, chapter 206-A, the Maine Land Use Planning Commission may regulate the home cultivation of marijuana for personal adult use within a town, plantation or township in the unorganized and deorganized areas.

A. The Maine Land Use Planning Commission may limit the total number of mature marijuana plants that may be cultivated on any one parcel or tract of land within a town, plantation or township in the unorganized and deorganized areas so long as that limitation allows for the cultivation of 3 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on a parcel or tract of land. [2017, c. 409, Pt. A, §6 (NEW).]

B. The Maine Land Use Planning Commission may not generally prohibit the home cultivation of marijuana for personal adult use within a town, plantation or township in the unorganized and deorganized areas; restrict the areas within the town, plantation or township in which home cultivation of marijuana for personal adult use is allowed; or charge a license or other fee to a person relating to the home cultivation of marijuana for personal adult use within the town, plantation or township. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§1503. HOME EXTRACTION OF MARIJUANA CONCENTRATE BY USE OF INHERENTLY HAZARDOUS SUBSTANCE PROHIBITED

Except as authorized under section 502, subsection 7 or pursuant to the Maine Medical Use of Marijuana Act, a person may not manufacture marijuana concentrate using an inherently hazardous substance. The owner of a property or a parcel or tract of land may not intentionally or knowingly allow another person to manufacture marijuana concentrate using an inherently hazardous substance within or on that property or land. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§1504. VIOLATIONS; PENALTIES

Except as provided in section 1501, subsection 2, a person who violates any provision of this chapter is subject to forfeiture or seizure of any unauthorized marijuana, marijuana products or marijuana plants pursuant to Title 15, chapter 517 and is subject to any additional criminal or civil penalties that may be imposed pursuant to other applicable laws or rules. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

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