

§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. [PL 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. [PL 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. [PL 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. [PL 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. [PL 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 Title 36, chapter 723, which must be paid to the State Tax Assessor as required by subsection 9. [PL 2019, c. 231, Pt. B, §2 (AMD).]

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. [PL 2017, c. 409, Pt. A, §6 (NEW).]

E. The department shall adopt rules regulating the operation of nursery cultivation facilities. [PL 2017, c. 409, Pt. A, §6 (NEW).]
[PL 2019, c. 231, Pt. B, §2 (AMD).]

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.

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

[PL 2017, c. 409, Pt. A, §6 (NEW); PL 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. [PL 2017, c. 409, Pt. A, §6 (NEW); PL 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 State Tax Assessor the excise taxes imposed pursuant to Title 36, chapter 723 on the sale of the marijuana plants and marijuana seeds. 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. [PL 2019, c. 231, Pt. B, §3 (AMD).]

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

The department shall adopt rules to implement this subsection.
[PL 2019, c. 231, Pt. B, §3 (AMD).]

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. [PL 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. [PL 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. [PL 2017, c. 409, Pt. A, §6 (NEW).]

[PL 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.

[PL 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 pursuant to Title 36, chapter 723 is paid to the State Tax Assessor. 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.

[PL 2019, c. 231, Pt. B, §4 (AMD).]

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.

[PL 2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 2017, c. 409, Pt. A, §6 (NEW). PL 2017, c. 452, §37 (REV). PL 2019, c. 231, Pt. B, §§2-4 (AMD).

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