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Date: (Filing No. S-)

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STATE OF MAINE
SENATE
132ND LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “B” to H.P. 1231, L.D. 1847, “An Act to Institute Testing and Tracking of Medical Use Cannabis and Cannabis Products Similar to Adult Use Cannabis and Cannabis Products, Dedicate a Portion of the Adult Use Cannabis Sales and Excise Tax to Medical Use Cannabis Programs and Create a Study Group”

Amend the amendment by striking out the substitute title and substituting the following:

'An Act to Establish Testing and Tracking of Medical Use Cannabis and to Make Other Changes to the Medical Use and Adult Use Cannabis Programs'

Amend the amendment in Part A by inserting after section 13 the following:

'Sec. A-14. 22 MRSA §2423-F, sub-§8, ¶A, as repealed and replaced by PL 2019, c. 331, §17 and amended by PL 2021, c. 669, §5, is further amended by enacting a new first blocked paragraph to read:

The department may deny registration to an applicant if, during an inspection of that applicant pursuant to section 2430-K, the department finds evidence of a violation of this chapter or rules adopted pursuant to this chapter.'

Amend the amendment in Part A by striking out all of sections 15 and 16 and inserting the following:

'Sec. A-15. 22 MRSA §2423-G is enacted to read:

§2423-G. Cannabis testing facilities; requirements

1. Facility requirements. The following requirements are applicable to the operation of a cannabis testing facility registered in accordance with this chapter regarding mandatory testing and other testing of harvested cannabis.

A. A testing facility that is licensed pursuant to Title 28-B, chapter 1 to test cannabis and cannabis products for harmful contaminants and cannabinoid profiles may be issued a registration certificate to operate a cannabis testing facility under this chapter, as long as the licensed testing facility is in good standing with the office and the request for a registration certificate is submitted on forms provided by the office. There is no fee for a registration certificate issued to a testing facility licensed under Title 28-B,

SENATE AMENDMENT

1 chapter 1. All employees of the cannabis testing facility that conduct mandatory and
2 other testing on harvested cannabis shall obtain from the office a registry identification
3 card in accordance with section 2425-A.

4 B. A person that is not licensed under Title 28-B, chapter 1 to operate a testing facility
5 may apply for a registration certificate to operate a cannabis testing facility under this
6 chapter in accordance with the requirements of section 2425-A. The office may not
7 issue a registration certificate to a person pursuant to this paragraph and section 2425-A
8 unless the applicant also demonstrates that:

9 (1) The applicant has obtained accreditation pursuant to standard ISO/IEC 17025
10 of the International Organization for Standardization by a 3rd-party accrediting
11 body for all fields of mandatory testing, in all matrices, required under this chapter;

12 (2) The applicant has obtained certification by the Maine Center for Disease
13 Control and Prevention in accordance with section 569 for all fields of mandatory
14 testing, in all matrices, required under this chapter;

15 (3) The applicant and, if the applicant is a business entity, anyone with a financial
16 or other interest in the applicant is not a caregiver, a registered caregiver or an
17 officer or director of a registered dispensary or manufacturing facility; and

18 (4) The applicant has obtained local authorization in accordance with section
19 2429-D from the municipality where the cannabis testing facility will be located.

20 C. For the purposes of administering tests pursuant to this chapter, a registered
21 cannabis testing facility is authorized to:

22 (1) Accept and possess samples of harvested cannabis for mandatory testing from
23 registrants;

24 (2) Accept and possess samples of harvested cannabis for other testing from
25 registrants, qualifying patients and members of the public;

26 (3) Test samples of harvested cannabis for mandatory and other testing and report
27 the results of such testing to the registrant, qualifying patient or member of the
28 public that submitted the samples for testing;

29 (4) Report the results of any mandatory and other testing conducted pursuant to
30 this chapter to the office;

31 (5) Test samples of harvested cannabis that are submitted for retesting after a failed
32 mandatory test and report the results of retesting to the registrant, qualifying patient
33 or member of the public that submitted the samples for retesting and to the office;
34 and

35 (6) Hire any number of cardholders necessary to conduct analyses in accordance
36 with this chapter.

37 D. The office may deny a registration certificate to an applicant if, during an inspection
38 of that applicant pursuant to section 2430-K, the office finds evidence of a violation of
39 this chapter or rules adopted pursuant to this chapter.

40 **2. Rules.** The office may adopt rules regarding the registration, certification,
41 accreditation and operation of cannabis testing facilities authorized under this chapter,
42 including, but not limited to, rules establishing acceptable testing practices for cannabis

1 testing facilities, including, but not limited to, provisions relating to testing practices,
2 methods and standards; remediation and retesting procedures; quality control analysis;
3 equipment certification and calibration; chemical identification; cannabis testing facility
4 record-keeping, documentation and business practices; disposal of used, unused and waste
5 harvested cannabis; and reporting of test results. Rules adopted pursuant to this subsection
6 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.'

7 Amend the amendment in Part A in section 17 in the indented paragraph in the last line
8 (page 5, line 21 in amendment) by striking out the following: "2423-H" and inserting the
9 following: '2423-G'

10 Amend the amendment in Part A by inserting after section 18 the following:

11 '**Sec. A-19. 22 MRSA §2425-A, sub-§4, ¶B,** as enacted by PL 2017, c. 452, §12,
12 is amended to read:

13 B. The department may deny an application for a card or for renewal of a card only if:

14 (1) The applicant did not provide the information required pursuant to subsection
15 3;

16 (2) The department determines that the applicant does not qualify; ~~or~~

17 (3) The department determines that the information provided by the applicant was
18 falsified; or

19 (4) In the case of an applicant applying to be a registered caregiver or registered
20 dispensary, the office finds evidence of a violation of this chapter or rules adopted
21 pursuant to this chapter during an inspection conducted pursuant to section
22 2430-K.'

23 Amend the amendment in Part A in section 19 in subsection 6 in paragraph E in the
24 last line (page 6, line 7 in amendment) by striking out the following: "2423-H" and inserting
25 the following: '2423-G'

26 Amend the amendment in Part A in section 21 in subsection 3 in the last line (page 6,
27 line 20 in amendment) by striking out the following: "2423-H" and inserting the following:
28 '2423-G'

29 Amend the amendment in Part A in section 22 in subsection 1-A in the last 4 lines
30 (page 6, lines 24 to 27 in amendment) by striking out the following: "In the calculation
31 of the amount or potency of cannabinoids allowed under this subsection, the allowable
32 variance rate may be in addition to the allowable variance rate applicable to a cannabis
33 testing facility pursuant to section 2430-P, subsection 6"

34 Amend the amendment in Part A by striking out all of sections 24 to 26.

35 Amend the amendment in Part A by inserting after section 27 the following:

36 '**Sec. A-28. 22 MRSA §2430-K,** as enacted by PL 2023, c. 365, §22, is amended to
37 read:

38 **§2430-K. Inspections; limitation**

39 The office shall conduct inspections of initial applicants to be registered caregivers,
40 registered dispensaries, cannabis testing facilities and manufacturing facilities in
41 accordance with this section and rules adopted pursuant to this chapter. The office shall

1 conduct annual inspections of registered caregivers, registered dispensaries, cannabis
2 testing facilities and manufacturing facilities in accordance with this section and rules
3 adopted pursuant to this chapter. The department office may conduct inspections of
4 registered caregivers, registered dispensaries, cannabis testing facilities and manufacturing
5 facilities in accordance with this section and rules adopted pursuant to this chapter. The
6 department office may not conduct an inspection of a qualifying patient or caregiver
7 operating under section 2423-A, subsection 3, paragraph C.

8 **1. Criteria.** The department office shall maintain a publicly accessible electronic
9 version of the criteria for inspection of registered caregivers, registered dispensaries,
10 cannabis testing facilities and manufacturing facilities and for inspection of initial
11 applicants to be registered caregivers, registered dispensaries, cannabis testing facilities
12 and manufacturing facilities.

13 **2. Access to premises.** Notwithstanding any provision of law to the contrary, to ensure
14 compliance with this chapter or in response to a complaint, the department office may
15 inspect the premises where a registered caregiver, registered dispensary, cannabis testing
16 facility or manufacturing facility conducts activity authorized under this chapter, without
17 notice during regular business hours or during hours of apparent activity, except that the
18 department office may not enter the dwelling unit of a registered caregiver if the registered
19 caregiver is not present and may inspect the area of a dwelling unit only where activity
20 authorized under this chapter occurs.

21 **3. Complaints.** If the department office conducts an inspection in response to a
22 complaint, the department office shall provide the registered caregiver, registered
23 dispensary, cannabis testing facility or manufacturing facility subject to the inspection a
24 written statement of the substance of the complaint at the time of the inspection.

25 **4. Contamination prevention.** The department office shall develop and post on the
26 department's office's publicly accessible website guidance on how a person conducting
27 inspections under this section can prevent contaminating the premises being inspected.

28 **5. Notification of unauthorized conduct.** If during an inspection the department
29 office finds evidence of a violation of this chapter or rules adopted pursuant to this chapter,
30 the department office shall, within one business day of the completion of the inspection,
31 provide written notification of the identified violation to the applicant or registered
32 caregiver, registered dispensary, cannabis testing facility or manufacturing facility. Notice
33 under this subsection does not constitute final agency action.

34 **6. Penalty.** In addition to any other penalty authorized under this chapter, the registry
35 identification card or registration certificate of a registered caregiver, registered dispensary,
36 cannabis testing facility or manufacturing facility that refuses or willfully avoids 2 or more
37 inspections under this section may be suspended or revoked pursuant to section 2430-I or
38 the department office may refuse to renew the registry identification card or registration
39 certificate. Notwithstanding any provision of law to the contrary, the office may deny
40 registration to an applicant if, during an inspection of that applicant, the office finds
41 evidence of a violation of this chapter or rules adopted pursuant to this chapter.'

42 Amend the amendment in Part A by striking out all of sections 29 to 32 and inserting
43 the following:

44 'Sec. A-29. 22 MRSA §2430-P is enacted to read:

1 **§2430-P. Annual inspections; mandatory sample testing**

2 The office shall conduct testing of samples collected by the office during the annual
3 inspection required under section 2430-K for registered caregivers, registered dispensaries
4 and manufacturing facilities in accordance with this section. This section may not be
5 construed to limit the authority of the office to take samples of harvested cannabis pursuant
6 to an investigation by the office into the conduct of a registrant or a registrant agent.

7 **1. Mandatory testing; costs.** The office shall test a sample of harvested cannabis
8 collected under this section for:

9 A. Residual solvents;

10 B. Metals; and

11 C. Pesticides.

12 The costs associated with conducting tests under this subsection must be paid for by the
13 registered caregiver, registered dispensary and manufacturing facility from which the
14 sample was collected.

15 **2. Other testing; costs.** The office may conduct other tests on a sample of harvested
16 cannabis collected under this section for the purpose of research and data collection. Any
17 test conducted under this subsection must be paid for by the office.

18 **3. Notification of results; records.** The office shall notify a registered caregiver,
19 registered dispensary and manufacturing facility within one business day of the office
20 receiving the results of any test conducted under this section. The office shall provide a
21 written copy of any test results with the notification. A registered caregiver, registered
22 dispensary and manufacturing facility shall keep a record of all test results under this
23 section for a period of 4 years in the same manner as other records required to be kept under
24 this chapter.

25 **4. Results exceed maximum allowable contamination level; additional testing.** If
26 a test conducted under this section for residual solvents or pesticides indicates that the
27 sample of harvested cannabis exceeds the maximum level of allowable contamination for
28 residual solvents or pesticides, as determined by the office pursuant to rules adopted
29 pursuant to this section, which are major substantive rules pursuant to Title 5, chapter 375,
30 subchapter 2-A, the office shall:

31 A. Provide notification as required under subsection 3 and, if applicable, provide
32 notice to any registered caregiver, registered dispensary or manufacturing facility from
33 which the harvested cannabis sample originated;

34 B. Collect up to 3 additional samples of harvested cannabis from the registrant whose
35 sample exceeded the maximum level of allowable contamination for residual solvents
36 or pesticides and from any registrant from which the harvested cannabis sample
37 originated from any location where a registered caregiver, registered dispensary or
38 manufacturing facility conducts activity authorized under this chapter;

39 C. Restrict the transfer or sale of the batch of harvested cannabis that exceeded the
40 maximum level of allowable contamination for residual solvents or pesticides under
41 this subsection and may initiate a recall of any harvested cannabis from the batch that
42 may have already been sold or transferred; and

1 D. Conduct testing for residual solvents and pesticides on the additional samples
2 collected under paragraph B at the expense of the registrant.

3 If additional testing conducted under paragraph D indicates that any of the samples
4 collected under paragraph B exceed the maximum level of allowable contamination for
5 residual solvents or pesticides, the office shall restrict the transfer or sale of all batches of
6 harvested cannabis in the possession of the registrant, initiate a recall of any harvested
7 cannabis sold or transferred by the registrant from the batch or batches of harvested
8 cannabis tested and shall open an investigation into the conduct of the registrant.

9 **5. Results exceed maximum allowable contamination level; administrative**
10 **penalty; violation types.** The following administrative penalties may apply:

11 A. A registered caregiver, registered dispensary or manufacturing facility whose initial
12 test under this section indicates that the sample of harvested cannabis exceeds the
13 maximum level of allowable contamination for residual solvents or pesticides may be
14 subject to an administrative penalty for a minor registration violation under section
15 2430-I, subsection 1-A, paragraph C; and

16 B. A registered caregiver, registered dispensary or manufacturing facility that has a
17 sample collected under subsection 4, paragraph B that exceeds the maximum level of
18 allowable contamination for residual solvents or pesticides may be subject to an
19 administrative penalty for a major registration violation under section 2430-I,
20 subsection 1-A, paragraph B.

21 **6. Sample collection, testing processes, protocols and standards.** The office may
22 establish by rule processes, protocols and standards for the collection of samples for annual
23 testing and for other testing of harvested cannabis that conform with the best practices
24 generally used to sample the applicable matrices and test for the presence or absence of the
25 contaminants identified in this section based upon the matrix of the harvested cannabis
26 tested. Rules adopted pursuant to this subsection are major substantive rules as defined in
27 Title 5, chapter 375, subchapter 2-A.

28 If the office opens an investigation into the conduct of a registered caregiver, registered
29 dispensary or manufacturing facility under this section, evidence of a violation of this
30 chapter or rules adopted pursuant to this chapter must be handled pursuant to section
31 2430-I.'

32 Amend the amendment in Part B in section 4 in the indented paragraph in the 9th to
33 12th lines (page 15, lines 41 and 42 and page 16, lines 1 and 2 in amendment) by striking
34 out the following: "All cannabis concentrates used to manufacture cannabis products in
35 accordance with this chapter must be tested in accordance with subsections 1-C and 1-D
36 prior to being used to manufacture a cannabis product or a cannabis pre-roll infused with
37 cannabis concentrate."

38 Amend the amendment in Part B by striking out all of sections 5 to 10.

39 Amend the amendment by striking out all of Part C.

40 Amend the amendment in Part D by striking out all of section 1.

41 Amend the amendment in Part D in section 2 by inserting at the end the following:

42 'The term of an initial contract with a vendor may not exceed 3 years. The total cost of
43 the initial contract with a vendor may not exceed \$250,000 for 3 years. Notwithstanding

1 Title 22, section 2430-O or any other provision of law to the contrary, including Title 5,
2 section 1825-B, the office may not accept a bid, proposal or application or award a contract
3 for the development, implementation, maintenance, administration or operation of the
4 electronic inventory tracking system required pursuant to Title 22, section 2430-O from or
5 to any person or entity that:

6 1. Holds a contract with the State for the provision or operation of a cannabis industry
7 tracking system required under Title 28-B, section 105; or

8 2. Is involved with; is an affiliate, subsidiary, parent company, officer, director or
9 principal of; or has a direct financial interest in an entity that holds a contract described in
10 subsection 1.

11 For the purposes of this section, "involved with" includes any direct or indirect
12 ownership, control or participation that could reasonably be construed as creating a conflict
13 of interest.'

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

16 SUMMARY

17 This amendment amends Committee Amendment "B" to require the Department of
18 Administrative and Financial Services, Office of Cannabis Policy to conduct inspections
19 of initial applicants to be registered caregivers, registered dispensaries, cannabis testing
20 facilities and manufacturing facilities in accordance with the laws and rules governing the
21 medical use of cannabis. It also requires the office to conduct annual inspections of
22 registered caregivers, registered dispensaries, cannabis testing facilities and manufacturing
23 facilities. The amendment provides that the office may deny registration to an applicant to
24 be a registered caregiver, registered dispensary, cannabis testing facility or manufacturing
25 facility if during an inspection of that applicant the office finds evidence of a violation of
26 the laws or rules governing the medical use of cannabis.

27 The amendment removes the testing provisions of Committee Amendment "B" and
28 replaces them with the testing provisions of Committee Amendment "C," which require the
29 Office of Cannabis Policy to conduct testing of samples collected by the office during
30 required annual inspections for registered caregivers, registered dispensaries and
31 manufacturing facilities.

32 The amendment removes the provisions regarding the excise tax on cannabis pre-roll.

33 The amendment provides that the term of the initial contract with a vendor for the
34 electronic inventory tracking system may not exceed 3 years. It also provides that the total
35 cost of the initial contract may not exceed \$250,000 for 3 years. The amendment provides
36 that the office may not accept a bid, proposal or application or award a contract for the
37 development, implementation, maintenance, administration or operation of the electronic
38 inventory tracking system from or to any person or entity that holds a contract with the
39 State for the provision or operation of a cannabis industry tracking system required under
40 the Maine Revised Statutes, Title 28-B, section 105 or is involved with; is an affiliate,

1 subsidiary, parent company, officer, director or principal of; or has a direct financial interest
2 in an entity that holds such a contract.

3 **SPONSORED BY:** _____

4 (Senator HICKMAN, C.)

5 COUNTY: Kennebec