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S.P. 324

In Senate, March 10, 2021

An Act To Amend the Marijuana Legalization Act and the Laws Governing the Taxation of Marijuana

(EMERGENCY)

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

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

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DAREK M. GRANT Secretary of the Senate

Presented by Senator LUCHINI of Hancock.

- 1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not 2 become effective until 90 days after adjournment unless enacted as emergencies; and
 - Whereas, licenses to authorize the cultivation, manufacture, testing and sale of adult use marijuana and adult use marijuana products began to be issued in September of 2020; and
- 6 Whereas, the changes to the adult use marijuana laws in this legislation are critical to sustainability and growth of a critical source of revenue in the midst of an ongoing 7 8 economic crisis; and
- 9 Whereas, in the judgment of the Legislature, these facts create an emergency within 10 the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, 11 12 therefore.
- Be it enacted by the People of the State of Maine as follows: 13
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- - PART A
- 15 Sec. A-1. 28-B MRSA §501, sub-§6, as amended by PL 2019, c. 231, Pt. B, §3, is 16 further amended to read:

17 6. Limited authorization for sale of marijuana plants and, marijuana seeds, 18 marijuana flower and marijuana trim by registered caregiver or registered dispensary to cultivation facility licensee. Notwithstanding any other provision of law 19 20 to the contrary and subject to the requirements and restrictions of this section, for a period 21 starting on the date that the department issues the first active cultivation facility license under section 205, subsection 4, except as provided in paragraph A, and ending 2 years 22 23 after that date, a registered caregiver or a registered dispensary may sell marijuana plants and, marijuana seeds, marijuana flower and marijuana trim to a cultivation facility licensee 24 25 that is also a registered caregiver or a registered dispensary and a cultivation facility 26 licensee that is also a registered caregiver or a registered dispensary may purchase marijuana plants and, marijuana seeds, marijuana flower and marijuana trim from a 27 28 registered caregiver or a registered dispensary. The department shall post on its publicly 29 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 30 31 cultivation facility license is issued.

32 A. Beginning on the date that the department issues the first active cultivation facility 33 license and, except as provided by the department by rule pursuant to this paragraph, ending 2 years after that date, in an active cultivation facility license issued to any 34 cultivation facility licensee that has demonstrated to the department's satisfaction that 35 the licensee is also a registered caregiver or a registered dispensary, the department 36 shall include language authorizing the licensee, at any time within the licensee's first 37 38 year of licensure and prior to the expiration of the authorized transfer period, to 39 purchase an unlimited number of marijuana plants and marijuana seeds and an unlimited amount of marijuana flower and marijuana trim from registered caregivers 40 41 and registered dispensaries. This authorization may not be included in any license issued upon renewal under section 209. The department may by rule extend the end 42 date for the authorized transfer period under this subsection beyond 2 years after the 43

1date the department issues the first active cultivation facility license. If the department2adopts by rule a later end date for the authorized transfer period under this paragraph,3beginning on the effective date of the rule, the department shall use that later end date4in providing the authorization that may be granted pursuant to this paragraph to a5cultivation facility licensee.

6 B. A cultivation facility licensee authorized pursuant to paragraph A to purchase 7 marijuana plants and, marijuana seeds, marijuana flower and marijuana trim from 8 registered caregivers and registered dispensaries that transacts such a purchase shall 9 pay to the State Tax Assessor the excise taxes imposed pursuant to Title 36, chapter 10 723 on the sale of the marijuana plants and, marijuana seeds, marijuana flower and marijuana trim. In addition to payment of the required excise taxes under this 11 paragraph, the cultivation facility licensee shall provide the department with an 12 13 accounting of the transaction, which must include information on the registered caregiver or registered dispensary from which the licensee purchased the marijuana 14 15 plants and, marijuana seeds, marijuana flower and marijuana trim; the number of mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds 16 purchased in the transaction; the amount, by weight, of marijuana flower and marijuana 17 18 trim purchased in the transaction; and any other information required by the department 19 by rule.

20 C. A cultivation facility licensee authorized pursuant to paragraph A to purchase 21 marijuana plants and, marijuana seeds, marijuana flower and marijuana trim from registered caregivers and registered dispensaries may purchase an unlimited number of 22 23 marijuana plants and marijuana seeds and an unlimited amount of marijuana flower 24 and marijuana trim from more than one registered caregiver or registered dispensary 25 and may transact more than one purchase of marijuana plants and marijuana seeds such items from a registered caregiver or registered dispensary. A Until October 1, 2021, a 26 27 registered caregiver or registered dispensary may not sell marijuana plants and, 28 marijuana seeds, marijuana flower and marijuana trim to more than one cultivation 29 facility licensee authorized pursuant to paragraph A to purchase marijuana plants and 30 marijuana seeds such items from registered caregivers and registered dispensaries and 31 may not transact more than one sale of marijuana plants and marijuana seeds such items to a cultivation facility licensee authorized to make such purchases pursuant to 32 33 paragraph A. The department may by rule extend the end date by which a registered 34 caregiver or registered dispensary may make unlimited authorized transfers to 35 cultivation facility licensees beyond October 1, 2021.

- 36 (1) If the department adopts by rule a later end date for the unlimited authorized
 37 transfers by registered caregivers and registered dispensaries under this paragraph,
 38 beginning on the effective date of the rule, the department shall use that later end
 39 date.
- 40(2) If the department does not adopt by rule a later end date for the unlimited41authorized transfers by registered caregivers and registered dispensaries under this42paragraph, any registered caregiver or registered dispensary that has already made43a transfer or transfers under this paragraph may make one additional authorized44transfer to one cultivation facility licensee under this paragraph after October 1,452021. Any registered caregiver or registered dispensary that has not made an46authorized transfer before October 1, 2021 may make one authorized transfer to

1 2	one cultivation facility licensee until such transfers are no longer permitted under paragraph A.
3 4 5 6 7 8 9 10 11 12	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, marijuana flower and marijuana trim 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 this subsection or the rules adopted pursuant to this 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.
13 14 15	The department shall adopt rules to implement this subsection. <u>Rules adopted pursuant to</u> this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
16	PART B
17 18	Sec. B-1. 36 MRSA §4923, sub-§5, as enacted by PL 2019, c. 231, Pt. B, §7, is amended to read:
19 20 21 22 23 24 25 26	5. Excise tax on purchases from registered caregivers and registered dispensaries. A cultivation facility licensee authorized pursuant to Title 28-B, section 501, subsection 6, paragraph A to purchase marijuana plants and, marijuana seeds, marijuana flower and marijuana trim from registered caregivers and registered dispensaries that transacts such a purchase shall pay to the assessor the excise taxes that would have been imposed under subsections 1 to 4 on the sale of the marijuana plants and, marijuana seeds, marijuana flower and marijuana trim if the marijuana plants and, marijuana seeds, marijuana flower and marijuana trim had been sold by a cultivation facility licensee to another licensee.
27 28	Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.
29	SUMMARY
30 31	This bill makes the following changes to the Marijuana Legalization Act and the laws governing the taxation of marijuana.
32 33 34 35 36 37 38 39 40 41 42 43	1. It permits an adult use cultivation facility licensee to accept from registered caregivers and registered dispensaries unlimited transfers of marijuana plants, marijuana seeds, marijuana flower and marijuana trim until 2 years after the date the Department of Administrative and Financial Services issues the first active cultivation facility license or a later date set in rule by the department. It permits registered caregivers and registered dispensaries to transfer an unlimited number of marijuana plants and marijuana seeds and an unlimited amount of marijuana flower and marijuana trim to an adult use cultivation facility licensee until October 1, 2021 or a later date set in rule by the department. If the department does not extend by rule the date by which a registered caregiver or registered dispensary may make unlimited authorized transfers to adult use cultivation facility licensees, a registered caregiver or registered dispensary that has already made an authorized transfer may make one more authorized transfer and a registered caregiver or

- registered dispensary that has not made an authorized transfer may make one authorized
 transfer to an adult use cultivation facility licensee.
- 2. It requires cultivation facility licensees to remit excise taxes on transfers of
 marijuana flower and marijuana trim received from a registered caregiver or registered
 dispensary.