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An Act To Amend the Maine Medical Use of Marijuana Act with Regard to Good Business Practices

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §2422, sub-§6-A, as repealed by PL 2011, c. 407, Pt. B, §8, is reenacted to read:

6-A. Onsite assessment. "Onsite assessment" means a visit by an employee of the department for the purpose of ensuring compliance with the requirements of this chapter to any site where marijuana is grown by a registered primary caregiver who has been designated pursuant to section 2425, subsection 1, paragraph F to cultivate marijuana for 3, 4 or 5 registered patients at one time.

Sec. 2. 22 MRSA §2423-A, sub-§2, ¶B, as amended by PL 2011, c. 407, Pt. B, §16, is further amended to read:

B. Cultivate up to 6 mature marijuana plants for each qualifying patient, up to a maximum of 5 qualifying patients, who has designated the primary caregiver to cultivate marijuana on the patient's behalf, subject to the limitation in subsection 1, paragraph B on the total number of plants authorized per qualifying patient. A primary caregiver may not cultivate marijuana for a patient unless the patient has designated the primary caregiver for that purpose and the patient has not designated a registered dispensary to cultivate marijuana for the patient's medical use. In addition to the marijuana plants otherwise authorized under this paragraph, a primary caregiver may have harvested marijuana plants in varying stages of processing in order to ensure the primary caregiver is able to meet the needs of the primary caregiver's qualifying patients;

Sec. 3. 22 MRSA §2423-A, sub-§2, ¶C, as amended by PL 2013, c. 516, §6, is repealed.

Sec. 4. 22 MRSA §2423-A, sub-§2, ¶I, as amended by PL 2013, c. 588, Pt. A, §26, is further amended to read:

I. Employ or contract with one person or more persons to assist in performing the duties of the primary caregiver;

Sec. 5. 22 MRSA §2423-A, sub-§2, ¶J, as amended by PL 2013, c. 588, Pt. D, §3, is further amended to read:

J. Use a pesticide in the cultivation of marijuana if the pesticide is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered primary caregiver may not in the cultivation of marijuana use a pesticide unless the registered primary caregiver or the registered primary caregiver's employee is certified in the application of the pesticide pursuant to section 1471-D and any employee who

has direct contact with treated plants has completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. An employee of the registered primary caregiver who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230; and

Sec. 6. 22 MRSA §2423-A, sub-§2, ¶K, as reallocated by RR 2013, c. 1, §40, is amended to read:

K. For the purpose of disposing of excess prepared marijuana, transfer prepared marijuana to a registered dispensary for reasonable compensation. The transfer of prepared marijuana by a primary caregiver to one or more dispensaries under this paragraph is limited to a registered primary caregiver. A registered primary caregiver may not transfer more than 2 pounds of excess prepared marijuana for reasonable compensation under this paragraph in a calendar year. A primary caregiver who transfers prepared marijuana pursuant to this paragraph does not by virtue of only that transfer qualify as a member of a collective; and

Sec. 7. 22 MRSA §2423-A, sub-§2, ¶L is enacted to read:

L. For the purpose of disposing of excess prepared marijuana, transfer prepared marijuana to a qualifying patient for reasonable compensation. The transfer of prepared marijuana by a primary caregiver to one or more qualifying patients under this paragraph is limited to a registered primary caregiver. A primary caregiver who transfers prepared marijuana pursuant to this paragraph does not by virtue of only that transfer qualify as a member of a collective.

Sec. 8. 22 MRSA §2423-A, sub-§6, as repealed by PL 2011, c. 407, Pt. B, §16, is reenacted to read:

6. Onsite assessments by the department. Prior to making an onsite assessment of a registered primary caregiver who is designated to cultivate marijuana by 3 or more patients at any one time, the department shall provide 24 hours' notice to the registered primary caregiver.

Sec. 9. 22 MRSA §2423-A, sub-§10 is enacted to read:

10. Collection and remittance of sales and use tax. A primary caregiver who receives compensation from a qualifying patient for the costs associated with cultivating marijuana for that qualifying patient or assisting that qualifying patient shall register as a seller with the State Tax Assessor and shall collect and remit taxes in accordance with Title 36, section 1754-B.

Sec. 10. 22 MRSA §2428, sub-§12 is enacted to read:

12. Collection and remittance of sales and use tax. A registered dispensary that receives compensation from a qualifying patient for the costs associated with cultivating marijuana for that qualifying patient or assisting that qualifying patient shall register as a seller with the State Tax Assessor and shall collect and remit taxes in accordance with Title 36, section 1754-B.

Sec. 11. Development of employment or contractor license. The Department of Health and Human Services shall develop by rule licensing requirements, qualifications and procedures for persons engaged by primary caregivers pursuant to the Maine Revised Statutes, Title 22, section 2423-A, subsection 2, paragraph I as employees or independent contractors on a full-time, temporary or seasonal basis. Rules adopted pursuant to this section are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill amends the Maine Medical Use of Marijuana Act in the following ways.

1. It clarifies that a primary caregiver may cultivate up to 6 marijuana plants for each of up to 5 qualifying patients.
2. It allows a primary caregiver to employ or contract with more than one person to assist with the duties required of that primary caregiver. The Department of Health and Human Services is required to adopt rules regarding the licensing of these assistants.
3. It allows the Department of Health and Human Services to make onsite assessments of registered primary caregivers who cultivate marijuana for 3 or more registered patients at a time to ensure compliance.
4. It allows a registered primary caregiver to transfer excess prepared marijuana to a qualifying patient for reasonable compensation.
5. It provides that a primary caregiver or registered dispensary that receives compensation from a qualifying patient for the costs associated with cultivating marijuana for that qualifying patient or assisting that qualifying patient is required to register as a seller with the State Tax Assessor and collect and remit sales tax. Under the current law, marijuana is specifically excluded from the sales tax exemption for medicines.