**An Act Regarding Registered Dispensaries and Rules under the Maine Medical Use of Marijuana Act and the Definition of "Resident" in the Marijuana Legalization Act**

L.D. 1319

Date: (Filing No. S- )

**Veterans and Legal Affairs**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE**

**SENATE**

**130th Legislature**

**First Special Session**

COMMITTEE AMENDMENT “      ” to S.P. 425, L.D. 1319, “An Act Regarding Registered Dispensaries and Rules under the Maine Medical Use of Marijuana Act and the Definition of "Resident" in the Marijuana Legalization Act”

Amend the bill by striking out the title and substituting the following:

**'An Act Regarding Rules under the Maine Medical Use of Marijuana Act'**

Amend the bill by striking out all of the emergency preamble.

Amend the bill by striking out everything after the enacting clause and inserting the following:

'**Sec. 1. 22 MRSA §2422, sub-§3-D** is enacted to read:

**3-D. Home-based caregiver.**  "Home-based caregiver" means a registered caregiver who engages in all authorized cultivation and manufacturing activities at the registered caregiver's primary residence and who does not operate a caregiver retail store.

**Sec. 2. 22 MRSA §2423-A, sub-§2, ¶J-1** is enacted to read:

J-1. Transfer marijuana plants to a qualifying patient for reasonable monetary compensation;

**Sec. 3. 22 MRSA §2424, sub-§4,** as amended by PL 2019, c. 217, §4, is further amended by adding at the end a new blocked paragraph to read:

The department may not adopt rules requiring video surveillance or security systems for home-based caregivers or within the dwelling unit of a home-based caregiver.

**Sec. 4. 22 MRSA §2425-A, sub-§5, ¶C,** as enacted by PL 2017, c. 452, §12, is amended to read:

C. Registry identification cards issued to an ~~officer or director or~~ assistant of a registered caregiver, dispensary or manufacturing facility or to an officer or director of a registered dispensary or manufacturing facility must ~~also~~ contain:

~~(1) The legal name of the registered dispensary with which the officer or director or assistant is affiliated;~~

(1-A) The name of the cardholder;

~~(2) The address and date of birth of the officer or director or assistant; and~~

(2-A) The date of issuance and the date of expiration;

(3) A photograph of the ~~officer or director or assistant~~ cardholder, if required by the department~~.~~; and

(4) A random identification number that is unique to the cardholder.

**Sec. 5. 22 MRSA §2425-A, sub-§5, ¶D,** as enacted by PL 2017, c. 452, §12, is repealed.

**Sec. 6. 22 MRSA §2430-G, sub-§1, ¶A,** as enacted by PL 2017, c. 452, §24, is amended by amending subparagraph (2) to read:

(2) Keep the books and records maintained by the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility for a period of 7 years; and

**Sec. 7. 22 MRSA §2430-G, sub-§1, ¶A,** as enacted by PL 2017, c. 452, §24, is amended by repealing subparagraph (3).

**Sec. 8. 22 MRSA §2430-G, sub-§1, ¶B,** as amended by PL 2019, c. 331, §32, is further amended to read:

B. The department shall develop and implement a statewide electronic portal through which registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities may submit to the department the records required under paragraph A and in accordance with rules adopted by the department. The electronic portal may not contain, and a registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility may not submit to the electronic portal, the names or dates of birth of qualifying patients. A registered caregiver, registered dispensary, marijuana testing facility and manufacturing facility shall pay all costs and fees associated with the use of this electronic portal and all other fees associated with the keeping of records required in this section in accordance with rules adopted by the department. The department shall adopt rules regarding the process and content of records to be submitted, including but not limited to an alternative reporting plan to be used in the event the electronic portal ceases to function or a registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility loses internet access to the electronic portal, the frequency with which the records must be submitted, the costs and fees associated with using the electronic portal and any other requirements necessary to implement this paragraph.

**Sec. 9. 22 MRSA §2430-G, sub-§1, ¶D** is enacted to read:

D. The department may not enforce the requirements of this subsection:

(1) For registered caregivers operating caregiver retail stores, until January 1, 2022;

(2) For home-based caregivers, until June 1, 2022; and

(3) For small-scale caregivers, as defined by the department by rule.

**Sec. 10. Department of Administrative and Financial Services' office of marijuana policy; medical use of marijuana program rulemaking.** Prior to the adoption of the Department of Administrative and Financial Services' office of marijuana policy's proposed Maine Medical Use of Marijuana Program Rule, 18-691 C.M.R., Chapter 2, referred to in the section as "the proposed rule," which received a public hearing on March 22, 2021, the department shall make the following changes to the proposed rule:

1. Amend the proposed rule to clarify that any video surveillance and security system requirements do not apply to home-based caregivers, including, but not limited to, the requirements specified in section 11.3.3(C) in accordance with the Maine Revised Statutes, Title 22, section 2424, subsection 4;

2. Amend the proposed rule to remove any video surveillance and security system requirements within the dwelling unit of a caregiver, including, but not limited to, the requirements specified in section 6.1.3 in accordance with Title 22, section 2424, subsection 4;

3. Amend the proposed rule to remove any requirements regarding outdoor lighting at a registered caregiver's primary residence or dwelling unit, including, but not limited to, the requirements specified in sections 6.1.3 and 11.3.3;

4. Amend the proposed rule to remove any requirements regarding car alarms or motor vehicle security systems, including, but not limited to, the requirements specified in section 7.2.5(A)(1)(b);

5. Amend the proposed rule to define and create an exemption for "small-scale caregivers" from the track and trace requirements, including, but not limited to, the requirements contained within sections 5.3.2, 5.6.1, 5.6.4, 5.7.1, 6.2.6, 6.2.8, 6.7.5, 7.1, 7.1.1, 7.1.2, 7.1.3, 7.2.2, 7.2.3, 7.2.4, 8.1.1, 11.3.4, 12.1.2, 12.1.3 and 12.1.5 in accordance with Title 22, section 2430-G, subsection 1;

6. Amend the proposed rule to create an alternative reporting plan to be used in the event the electronic portal ceases to function or a registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility loses Internet access to the electronic portal in accordance with Title 22, section 2430-G, subsection 1, paragraph B;

7. Amend the proposed rule to remove any requirements that regulate the formation or organization of a caregiver as a business entity, including, but not limited to, the requirements contained within section 6.2.2 in accordance with Title 22, section 2423-A, subsection 2, paragraph Q;

8. Amend the proposed rule to remove any references to law enforcement officers or law enforcement agencies, including, but not limited to, the references contained within sections 1.2, 6.1.1, 6.1.2, 6.1.3, 6.2.4, 6.2.5, 6.5.3, 6.6.3, 6.7.3, 6.7.4, 7.2.2, 7.2.3, 7.2.4, 7.2.5, 11.3.2, 11.3.3, 12.1.1, 12.1.2, 12.1.3, 12.1.4, 12.2.2, 12.3, 12.4 and 12.4.1;

9. Amend the proposed rule, after consultation with relevant industry stakeholders, to define and provide for the separate regulation of "marijuana tincture" and "marijuana drink"; and

10. Amend the proposed rule as necessary to conform with any other changes that have been made to the department's rule-making authority under the Maine Medical Use of Marijuana Act from the date of the initial draft of the proposed rule to the effective date of this Act.'

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

**SUMMARY**

This amendment strikes and replaces the bill, makes changes to the Maine Medical Use of Marijuana Act and directs the Department of Administrative and Financial Services to make certain changes to rules being considered for adoption under the Act.

1. It changes the Maine Medical Use of Marijuana Act to:

A. Define "home-based caregiver" and preclude the department's office of marijuana policy from requiring video surveillance or security systems for home-based caregivers or inside the dwelling unit of a home-based caregiver;

B. Remove the requirement to complete an annual audit of business transactions of a registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility by an independent 3rd party;

C. Create a single registry identification card for an assistant of a registered caregiver, dispensary or manufacturing facility or to an officer or director of a registered dispensary or manufacturing facility;

D. Allow caregivers to sell marijuana plants to qualifying patients;

E. Require that a statewide electronic portal implemented for record keeping may not contain, and a person may not submit to the electronic portal, the names or dates of birth of qualifying patients;

F. Require the department to define and create an exemption for "small-scale caregivers" from record-keeping requirements;

G. Require the department to create an alternative reporting plan to be used in the event the electronic portal ceases to function or a registrant loses Internet access to the electronic portal; and

H. Require that the department may not enforce the record-keeping requirements for caregiver retail stores until January 1, 2022, and may not enforce the record-keeping requirements for home-based caregivers until June 1, 2022.

2. The following changes must be made before the department may adopt the proposed rule under the Maine Medical Use of Marijuana Act:

A. Amend the proposed rule to conform with any changes to its statutory authority in the amendment;

B. Amend the proposed rule to remove any requirements regarding outdoor lighting;

C. Amend the proposed rule to remove any requirements regarding car alarms or motor vehicle security systems;

D. Amend the proposed rule to remove any references to law enforcement officers or law enforcement agencies; and

E. Amend the proposed rule, after consultation with relevant industry stakeholders, to define and provide for the separate regulation of "marijuana tincture" and "marijuana drink."

The amendment also removes the emergency preamble and emergency clause.

**FISCAL NOTE REQUIRED**

**(See attached)**