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FIRST REGULAR SESSION-2011

Legislative Document

No. 1453

H.P. 1067

House of Representatives, April 11, 2011

An Act To Legalize and Tax Marijuana

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST
Clerk

Presented by Representative RUSSELL of Portland.

Cosponsored by Representatives: CEBRA of Naples, LIBBY of Waterboro, MITCHELL of the Penobscot Nation, O'BRIEN of Lincolnville, WINTLE of Garland.

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

2 **PART A**

3 **Sec. A-1. 36 MRSA c. 723** is enacted to read:

4 **CHAPTER 723**

5 **MARIJUANA TAX**

6 **§4921. Rate of tax**

7 A tax at the rate of 7% is imposed on the value of marijuana sold for commercial
8 purposes pursuant to Title 22, chapter 558 or for medical use as defined in Title 22,
9 chapter 558-C, beginning on or after January 1, 2012.

10 **§4922. Application of revenues**

11 Revenues derived from the tax imposed by this chapter must be credited to a General
12 Fund suspense account. On or before the last day of each month, the State Controller
13 shall transfer the revenues received by the State Tax Assessor during the preceding month
14 pursuant to the tax imposed by section 4921 in equal amounts to the Land for Maine's
15 Future Fund established under Title 5, section 6203, the Agricultural Marketing Loan
16 Fund established under Title 10, section 1023-J, the Community Policing Grant Program
17 Fund established under Title 25, section 2917, the Heating Fuels Efficiency and
18 Weatherization Fund established under Title 35-A, section 10119, the University of
19 Maine System established under Title 20-A, chapter 411, the Maine Community College
20 System established under Title 20-A, chapter 431 and the Maine Maritime Academy.

21 **§4923. Annual report**

22 The bureau shall report annually beginning January 30, 2013 the amount of tax
23 revenue collected pursuant to section 4921 and the amount distributed to each fund
24 pursuant to section 4922 to the joint standing committee of the Legislature having
25 jurisdiction over appropriations and financial affairs and the joint standing committee of
26 the Legislature having jurisdiction over taxation matters.

27 **Sec. A-2. Review and report recommendations.** The Department of
28 Administrative and Financial Services, Bureau of Revenue Services shall review methods
29 for ensuring that all marijuana that is sold in the State is assessed. The bureau shall report
30 its findings and recommendations, including any necessary legislation, to the Joint
31 Standing Committee on Taxation by November 1, 2011. The Joint Standing Committee
32 on Taxation is authorized to submit a bill to the Second Regular Session of the 125th
33 Legislature to implement the recommendations.

34 **PART B**

35 **Sec. B-1. 22 MRSA §2383, sub-§1**, as repealed and replaced by PL 2009, c. 652,
36 Pt. B, §6, is amended to read:

1 **1. Marijuana.** Except as provided in sections 2390 and 2391 and chapter 558-C, a
2 person may not possess marijuana.

3 A. A person who possesses a usable amount of marijuana commits a civil violation
4 for which a fine of not ~~less than \$350 and not more than \$600 must be adjudged for~~
5 ~~possession of up to 1 1/4 ounces of marijuana and a fine of not less than \$700 and not~~
6 ~~more than \$1,000~~ \$250 must be adjudged for possession of ~~over 1 1/4 ounces to 2 1/2~~
7 ~~ounces up to one pound~~ of marijuana, none of which may be suspended.

8 **Sec. B-2. 22 MRSA §2390** is enacted to read:

9 **§2390. Personal use of marijuana**

10 Notwithstanding Title 17-A, chapter 45, a person 21 years of age or older may
11 possess, cultivate, store and purchase marijuana for personal use.

12 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
13 following terms have the following meanings.

14 A. "Incidental amount of marijuana" means a minor amount of marijuana plants,
15 seeds, stalks and roots or a residual amount of prepared marijuana or used marijuana
16 that is not included in the amounts of prepared marijuana as defined by rule adopted
17 by the department.

18 B. "Prepared marijuana" has the same meaning as in section 2422, subsection 14.

19 **2. Possession.** A person may possess up to one pound of prepared marijuana,
20 marijuana paraphernalia and an incidental amount of marijuana.

21 **3. Cultivation and storage of marijuana.** The following provisions apply to the
22 cultivation and storage of marijuana for personal use.

23 A. A person may use up to 75 square feet of space for the cultivation and storage of
24 marijuana at that person's place of residence, on property owned by that person or on
25 another person's property with the written permission of the other property owner.

26 B. Up to 3 people who share a residence may use a common space for the cultivation
27 and storage of marijuana of 75 square feet of space per person at the residence.

28 C. A person who elects to cultivate and store marijuana shall ensure the plants,
29 paraphernalia and equipment are secure from unauthorized access or access by a
30 person under 21 years of age.

31 D. Marijuana cultivation for medical use is not considered cultivation for personal
32 use under this section and is governed by chapter 558-C.

33 **4. Purchase.** A person may purchase up to 2 1/2 ounces of prepared marijuana,
34 marijuana paraphernalia and marijuana seedlings from a person or an establishment
35 licensed to sell these products under section 2391.

36 **5. Use.** A person may smoke or ingest marijuana in a nonpublic place including a
37 private residence. The existing prohibitions and limitations on smoking tobacco products
38 in specified areas pursuant to chapters 262 and 263 apply to marijuana.

- 1 **6. Limitations.** This section does not permit a person to:
- 2 A. Undertake a task under the influence of marijuana when doing so would
- 3 constitute negligence or professional malpractice or would otherwise violate a
- 4 professional standard;
- 5 B. Possess marijuana or otherwise engage in the use of marijuana:
- 6 (1) In a school bus;
- 7 (2) On the grounds of any preschool or primary or secondary school; or
- 8 (3) In a correctional facility;
- 9 C. Smoke marijuana:
- 10 (1) On any form of public transportation; or
- 11 (2) In a public place; or
- 12 D. Operate a motor vehicle, aircraft, motorboat, snowmobile or all-terrain vehicle
- 13 while under the influence of marijuana.
- 14 **7. Construction.** This section may not be construed to require an employer to
- 15 accommodate the smoking or ingestion of marijuana in a workplace or an employee
- 16 working while under the influence of marijuana.
- 17 **8. Rulemaking.** Rules adopted pursuant to this section are routine technical rules as
- 18 defined in Title 5, chapter 375, subchapter 2-A.

19 **Sec. B-3. 22 MRSA §2391** is enacted to read:

20 **§2391. Commercial marijuana-related activities**

21 Notwithstanding Title 17-A, chapter 45, a person who holds a license under section

22 2392 may cultivate, harvest, possess, process, package, transport, store and sell marijuana

23 and marijuana paraphernalia for commercial purposes.

24 **Sec. B-4. 22 MRSA §2392** is enacted to read:

25 **§2392. Licensing requirements**

26 **1. License issued.** The department shall issue or renew a license for commercial

27 marijuana-related activities to a person who meets the requirements of the department as

28 set forth in rule and in subsection 2. For purposes of this section, "commercial

29 marijuana-related activities" means cultivating, harvesting, processing, packaging,

30 transporting, storing or selling marijuana for commercial purposes.

31 A. The department shall limit the number of licenses issued as determined by the

32 department by rule in the first year and may issue no more than 30 additional licenses

33 per year in subsequent years.

34 B. The department shall grant provisional licenses to dispensaries that on June 30,

35 2011 are registered pursuant to section 2428 and to persons who on June 30, 2011 are

36 registered as primary caregivers pursuant to section 2422, subsection 11. A

1 dispensary or primary caregiver may decline provisional licensing by notifying the
2 department in writing. The department shall remove the provisional status of the
3 license once the primary caregiver completes the licensing process set forth in rule
4 and meets all licensing requirements.

5 **2. Requirements.** This subsection governs the operations of a licensee engaged in
6 commercial marijuana-related activities.

7 A. A person who has been convicted of a disqualifying drug offense may not be a
8 licensee. For purposes of this section, "a disqualifying drug offense" means a
9 conviction for a violation of a state or federal controlled substance law that is a crime
10 punishable by imprisonment for one year or more. It does not include an offense for
11 which the sentence, including any term of probation, incarceration or supervised
12 release, was completed 10 or more years earlier or an offense that consisted of
13 conduct that is permitted under this chapter.

14 B. A licensee may use no more than 2,000 square feet of space for commercial
15 marijuana cultivation.

16 C. A licensee may sell no more than 2 1/2 ounces of marijuana to a given individual
17 within a 7-day period. This restriction does not apply to sales to nonprofit
18 dispensaries registered pursuant to section 2428.

19 D. Commercial marijuana-related activities may not be located within 500 feet of the
20 property line of a preexisting public or private school.

21 E. A licensee shall implement appropriate security measures to prevent:

22 (1) Unauthorized entrance into areas containing marijuana;

23 (2) The theft of marijuana located on the premises or in transit;

24 (3) Tampering with or adulteration of the marijuana products;

25 (4) Unauthorized access to marijuana or marijuana paraphernalia by customers;
26 and

27 (5) Access to or sales of marijuana to persons under 18 years of age.

28 F. A licensee shall prepare and maintain documents that include procedures for the
29 oversight of all aspects of operations and procedures to ensure accurate record
30 keeping.

31 G. A person must be a resident of this State for a minimum of 1 year prior to
32 applying for a license.

33 **Sec. B-5. 22 MRSA §2393** is enacted to read:

34 **§2393. Commercial Marijuana-related Activities Licensing Fund established**

35 **1. Fund established.** The Commercial Marijuana-related Activities Licensing Fund,
36 referred to in this section as "the fund," is established as an Other Special Revenue Funds
37 account in the department for the purposes specified in this section.

38 **2. Sources of fund.** The State Controller shall credit to the fund:

1 A. All money received as a result of applications and renewal registrations for
2 licensing under section 2392;

3 B. All penalties and fines assessed for violations of sections 2390 to 2392;

4 C. All money from any other source, whether public or private, designated for
5 deposit into or credited to the fund; and

6 D. Interest earned or other investment income on balances in the fund.

7 **3. Uses of the fund.** The fund may be used for expenses of the department to
8 regulate commercial marijuana-related activities, as allocated by the Legislature.

9 **Sec. B-6. Rulemaking.** By December 1, 2011, the Department of Health and
10 Human Services shall adopt major substantive rules, as defined in the Maine Revised
11 Statutes, Title 5, chapter 375, subchapter 2-A, to implement the provisions of Title 22,
12 sections 2290 to 2293, governing the personal use of marijuana and commercial
13 marijuana-related activities, including rules governing:

14 1. Provisions for administering and enforcing section 2390 including oversight
15 requirements and penalties for violations;

16 2. The types of licenses for commercial marijuana-related activities that may be
17 issued pursuant to section 2392, including but not limited to a distinct license for
18 commercial marijuana cultivation and sales;

19 3. The terms, conditions and duration of each type of license pursuant to section
20 2392, including the provisional license pursuant to section 2392, subsection 1, paragraph
21 B;

22 4. The form and content of applications, renewal registration forms and associated
23 licensing and renewal fee schedules;

24 5. Procedures and timelines for application decisions, background checks and
25 appeals;

26 6. Minimum standards for employment, including requirements for background
27 checks, restrictions against hiring minors and safeguards to protect against unauthorized
28 employee access to marijuana;

29 7. Minimum record-keeping requirements, including the recording of the disposal of
30 marijuana that is not sold;

31 8. Minimum security requirements, including standards to reasonably protect against
32 unauthorized access to marijuana at all stages of the licensee's possession of the
33 marijuana, including receiving, processing, packing, storage, transporting and delivery to
34 licensed sales outlets;

35 9. Procedures for enforcing section 2393, including penalties for violations, and
36 procedures for suspending or terminating the license of a licensee that violates licensing
37 provisions or the rules adopted pursuant to this section;

1 10. A streamlined application and approval process for a person named as a primary
2 caregiver pursuant to Title 22, section 2425 and for an entity that is operating as a
3 registered dispensary under Title 22, section 2428; and

4 11. Any other oversight requirements that the department determines are necessary
5 to administer the laws relating to licensing commercial marijuana-related activities.

6 Rules adopted pursuant to this section may not prohibit a political subdivision of this
7 State from limiting the number of licensees that may operate in the political subdivision
8 or from enacting reasonable regulations applicable to licensees.

9 **PART C**

10 **Sec. C-1. 25 MRSA §2917** is enacted to read:

11 **§2917. Community Policing Grant Program established; fund established**

12 **1. Established.** The commissioner shall establish the Community Policing Grant
13 Program, referred to in this section as "the program," to assist county and municipal law
14 enforcement with community policing efforts in accordance with this section through
15 grants from the program.

16 **2. Fund.** The Community Policing Grant Program Fund, referred to in this section
17 as "the fund," is established within the Department of Public Safety to be used for the
18 program in accordance with rules established by the commissioner. The fund consists of
19 revenues deposited in the fund pursuant to Title 36, section 4922, any other funds
20 appropriated or allocated for inclusion in the fund, from any source, and any other money
21 available for deposit in the fund, including any federal funds or other public funds or any
22 donations made to the fund. The commissioner may apply for federal or other funds that
23 may be available for the purposes of the program. The fund is nonlapsing, and any
24 balance remaining in the fund at the end of any fiscal year must be carried forward to the
25 next fiscal year. The fund may also be used to pay for administrative expenses associated
26 with the program.

27 **3. Relation to other funding.** Grants from the program supplement any other
28 sources or levels of funding appropriated or allocated by the Legislature.

29 **4. Annual report.** The Department of Public Safety shall report annually, beginning
30 January 30, 2013, the amount of grant funds distributed to each recipient and the projects
31 that were funded pursuant to this section to the joint standing committees of the
32 Legislature having jurisdiction over criminal justice and public safety matters and
33 taxation matters.

34 **Sec. C-2. Rules.** The Commissioner of Public Safety shall, by December 1, 2011,
35 adopt routine technical rules, as defined in the Maine Revised Statutes, Title 5, chapter
36 375, subchapter 2-A, establishing the administration of the Community Policing Grant
37 Program and the Community Policing Grant Program Fund established in Title 25,
38 section 2917, including rules governing:

39 1. Application procedures, forms, deadlines and eligibility criteria for the grants;

- 2. Selection criteria and composition of a grant review committee, which must include representatives from groups involved in law enforcement, education, farming, community development and the reform of marijuana policy;
- 3. Criteria for awarding grants, dates for decisions of grant awards and methods for disbursement of funds;
- 4. Minimum record-keeping and reporting requirements for grantees; and
- 5. Any other oversight requirements that the commissioner determines necessary to administer the grants.

PART D

Sec. D-1. 22 MRSA §2422, sub-§1, as amended by PL 2009, c. 631, §8 and affected by §51, is repealed.

Sec. D-2. 22 MRSA §2422, sub-§3, as enacted by IB 2009, c. 1, §5, is repealed.

Sec. D-3. 22 MRSA §2422, sub-§5, as amended by PL 2009, c. 631, §11 and affected by §51, is further amended to read:

5. Medical use. "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a ~~registered~~ qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

Sec. D-4. 22 MRSA §2422, sub-§6, as amended by PL 2009, c. 631, §12 and affected by §51, is further amended to read:

6. Registered dispensary. "Registered dispensary" or "dispensary" means a not-for-profit entity registered under section 2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to ~~registered~~ qualifying patients who have designated the dispensary to cultivate marijuana for their medical use and the ~~registered~~ primary caregivers of those patients.

Sec. D-5. 22 MRSA §2422, sub-§6-A, as enacted by PL 2009, c. 631, §13 and affected by §51, is repealed.

Sec. D-6. 22 MRSA §2422, sub-§9, as enacted by IB 2009, c. 1, §5, is amended to read:

9. Qualifying patient. "Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition and in the physician's professional opinion is likely to receive therapeutic or palliative benefits from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the condition.

1 **Sec. D-7. 22 MRSA §2422, sub-§11**, as repealed and replaced by PL 2009, c.
2 631, §16 and affected by §51, is amended to read:

3 **11. Primary caregiver.** ~~"Registered primary caregiver" or "primary~~ "Primary
4 caregiver" means a person, a hospice provider licensed under chapter 1681 or a nursing
5 facility licensed under chapter 405 that provides care for a ~~registered~~ qualifying patient
6 and that has been ~~named~~ designated in writing by the patient as a primary caregiver to
7 assist with a ~~registered~~ qualifying patient's medical use of marijuana. A person who is a
8 primary caregiver must be at least 21 years of age and may not have been convicted of a
9 disqualifying drug offense.

10 **Sec. D-8. 22 MRSA §2422, sub-§12**, as amended by PL 2009, c. 631, §17 and
11 affected by §51, is repealed.

12 **Sec. D-9. 22 MRSA §2422, sub-§13**, as amended by PL 2009, c. 631, §18 and
13 affected by §51, is repealed.

14 **Sec. D-10. 22 MRSA §2422, sub-§15**, as enacted by IB 2009, c. 1, §5, is
15 repealed.

16 **Sec. D-11. 22 MRSA §2422, sub-§16**, as enacted by IB 2009, c. 1, §5, is
17 repealed.

18 **Sec. D-12. 22 MRSA §2423-A**, as enacted by PL 2009, c. 631, §21 and affected
19 by §51, is amended to read:

20 **§2423-A. Authorized conduct for the medical use of marijuana**

21 **1. Qualifying patient.** Except as provided in section 2426, a ~~registered~~ qualifying
22 patient may:

23 A. Possess up to 2 1/2 ounces of prepared marijuana and an incidental amount of
24 marijuana as provided in subsection 5;

25 B. Cultivate up to 6 marijuana plants if the patient elects to cultivate and the patient
26 has not designated a ~~registered~~ primary caregiver or registered dispensary to cultivate
27 marijuana on the patient's behalf;

28 C. Possess marijuana paraphernalia;

29 D. Furnish or offer to furnish to another ~~registered~~ qualifying patient for that person's
30 medical use of marijuana up to 2 1/2 ounces of prepared marijuana if nothing of value
31 is offered or transferred in return;

32 E. Name one person, hospice provider or nursing facility as a primary caregiver. A
33 2nd person or hospice provider or nursing facility may be named as a 2nd primary
34 caregiver if the patient is under 18 years of age. The primary caregivers for a patient
35 are determined solely by the ~~patient's preference as named on the application under~~
36 ~~section 2425, subsection 1~~ patient except that a parent, guardian or person having
37 legal custody shall serve as a primary caregiver for a minor child ~~pursuant to section~~
38 ~~2425, subsection 2, paragraph B, subparagraph (2)~~;

1 F. Designate one primary caregiver or a registered dispensary to cultivate marijuana
2 for the medical use of the patient, except that a hospice provider or a nursing facility
3 that is named as a primary caregiver by a ~~registered~~ qualifying patient and the staff of
4 the provider or facility may not be designated to cultivate marijuana for the patient.
5 The primary caregiver or dispensary that may cultivate marijuana for a patient is
6 determined solely by the patient's designation ~~on the application under section 2425,~~
7 ~~subsection 1~~ in writing; and

8 G. Be in the presence or vicinity of the medical use of marijuana and assist any
9 ~~registered~~ qualifying patient with using or administering marijuana.

10 **2. Primary caregiver.** Except as provided in section 2426, a ~~registered~~ primary
11 caregiver, for the purpose of assisting a ~~registered~~ qualifying patient who has ~~named~~
12 designated the primary caregiver ~~as provided in section 2425, subsection 1~~ in writing,
13 may:

14 A. Possess up to 2 1/2 ounces of prepared marijuana and an incidental amount of
15 marijuana as provided in subsection 5 for each patient who has ~~named~~ designated in
16 writing the person as a primary caregiver;

17 B. Cultivate up to 6 marijuana plants for each patient who has designated in writing
18 the primary caregiver to cultivate marijuana on the patient's behalf. A primary
19 caregiver may not cultivate marijuana for a patient unless the patient has designated
20 the primary caregiver for that purpose and the patient has not designated a registered
21 dispensary to cultivate marijuana for the patient's medical use;

22 C. Assist no more than 5 patients at any one time with their medical use of
23 marijuana;

24 D. Receive reasonable monetary compensation for costs associated with assisting a
25 patient ~~who named the primary caregiver through the department's registration~~
26 ~~process~~ if licensed under chapter 558;

27 E. Receive reasonable monetary compensation, if licensed under chapter 558, for
28 costs associated with cultivating marijuana for a patient who designated in writing the
29 primary caregiver to cultivate marijuana ~~through the department's registration~~
30 ~~process~~;

31 F. Be in the presence or vicinity of the medical use of marijuana and assist any
32 patient with the medical use or administration of marijuana; and

33 G. Prepare food as defined in section 2152, subsection 4 containing marijuana for
34 medical use by a ~~registered~~ qualifying patient if the primary caregiver preparing the
35 food has obtained a license pursuant to section 2167.

36 **3. Cultivation of marijuana.** The following provisions apply to the cultivation of
37 marijuana by a ~~registered~~ qualifying patient under subsection 1 or a ~~registered~~ primary
38 caregiver under subsection 2.

39 A. A patient who elects to cultivate marijuana plants must keep the plants ~~in an~~
40 ~~enclosed, locked facility unless the plants are being transported because the patient is~~
41 ~~moving or taking the plants to the patient's own property in order to cultivate them~~
42 secure from unauthorized access or from access by a person under 18 years of age.

1 B. A primary caregiver who has been designated by a patient to cultivate marijuana
2 for the patient's medical use must keep all plants ~~in an enclosed, locked facility unless~~
3 ~~the plants are being transported because the primary caregiver is moving or taking the~~
4 ~~plants to the primary caregiver's own property in order to cultivate them~~ secure from
5 unauthorized access or from access by a person under 18 years of age.

6 **4. Hospice provider or nursing facility.** A ~~registered~~ qualifying patient may name
7 a hospice provider licensed under chapter 1681 or a nursing facility licensed under
8 chapter 405 to serve as a ~~registered~~ primary caregiver. ~~If a hospice provider or nursing~~
9 ~~facility is named as a primary caregiver, the provider or facility shall complete the~~
10 ~~registration process with the department and obtain a primary caregiver registration card~~
11 ~~and the staff of the provider or facility shall obtain registry identification cards. To be~~
12 ~~issued a registry identification card, a~~ A staff person of a hospice provider or nursing
13 facility that has been named as a primary caregiver must be at least 21 years of age and
14 may not have been convicted of a disqualifying drug offense. The hospice provider or
15 nursing facility and the staff of the provider or facility may not cultivate marijuana for the
16 patient.

17 **5. Incidental amount of marijuana.** For purposes of this section, any incidental
18 amount of marijuana plants, seeds, stalks and roots, as defined by rule adopted by the
19 department, is lawful for a ~~registered~~ qualifying patient or a ~~registered~~ primary caregiver
20 to possess and is not included in the amounts of prepared marijuana specified in this
21 section.

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

26 **Sec. D-13. 22 MRSA §2423-B,** as enacted by PL 2009, c. 631, §22 and affected
27 by §51, is repealed.

28 **Sec. D-14. 22 MRSA §2423-C,** as enacted by PL 2009, c. 631, §23 and affected
29 by §51, is amended to read:

30 **§2423-C. Authorized conduct by anyone for the medical use of marijuana**

31 A person may provide a ~~registered~~ qualifying patient or a ~~registered~~ primary
32 caregiver with marijuana paraphernalia for purposes of the ~~registered~~ qualifying patient's
33 medical use of marijuana in accordance with this chapter and be in the presence or
34 vicinity of the medical use of marijuana as allowed under this chapter.

35 **Sec. D-15. 22 MRSA §2423-D,** as enacted by PL 2009, c. 631, §24 and affected
36 by §51, is repealed.

37 **Sec. D-16. 22 MRSA §2423-E, sub-§2,** as enacted by PL 2009, c. 631, §25 and
38 affected by §51, is amended to read:

1 **2. School, employer or landlord may not discriminate.** A school, employer or
2 landlord may not refuse to enroll or employ or lease to or otherwise penalize a person
3 solely for that person's status as a ~~registered~~ qualifying patient or a ~~registered~~ primary
4 caregiver unless failing to do so would put the school, employer or landlord in violation
5 of federal law or cause it to lose a federal contract or funding. This subsection does not
6 prohibit a restriction on the administration or cultivation of marijuana on premises when
7 that administration or cultivation would be inconsistent with the general use of the
8 premises. A landlord may prohibit the smoking of marijuana for medical purposes on the
9 premises of the landlord if the landlord prohibits all smoking on the premises and posts
10 notice to that effect on the premises.

11 **Sec. D-17. 22 MRSA §2424, sub-§2**, as repealed and replaced by PL 2009, c.
12 631, §26 and affected by §51, is amended to read:

13 **2. Adding debilitating medical conditions.** The commissioner shall establish, chair
14 and staff an advisory board consisting of at least 11 health care practitioners representing
15 various fields of practice, including but not limited to neurology, gastroenterology, pain
16 management, medical oncology, psychiatry, infectious disease, hospice medicine, family
17 medicine, pediatrics, treatment of addiction and gynecology. The practitioners must be
18 certified by a national board in their areas of specialty and knowledgeable about the
19 medical use of marijuana. The advisory board must also include at least 2 members of
20 the public, at least one of whom is a ~~registered~~ qualifying patient. The members must be
21 chosen for appointment by the commissioner from a list proposed by the Maine Medical
22 Association and the Maine Osteopathic Association or their successor organizations and
23 from a list of individuals who have volunteered to serve on the advisory board. The
24 advisory board shall:

25 A. Accept, review and evaluate petitions to add medical conditions, medical
26 treatments or diseases to the list of debilitating medical conditions that qualify for the
27 medical use of marijuana. If a petition contains information that is confidential under
28 section ~~2425, subsection 8, paragraph F~~ 2425-A, the board shall protect the
29 confidentiality of that information;

30 B. Convene at least once per year to conduct public hearings regarding adding
31 medical conditions, medical treatments or diseases to the list of debilitating medical
32 conditions that qualify for the medical use of marijuana;

33 C. Review and recommend to the commissioner for approval additional debilitating
34 medical conditions that would benefit from the medical use of marijuana; and

35 D. Recommend quantities of marijuana that are necessary to constitute an adequate
36 supply for ~~registered~~ qualifying patients, ~~registered~~ primary caregivers and registered
37 dispensaries.

38 **Sec. D-18. 22 MRSA §2424, sub-§3**, as amended by PL 2009, c. 631, §27 and
39 affected by §51, is repealed.

40 **Sec. D-19. 22 MRSA §2425**, as amended by PL 2009, c. 631, §§28 to 36 and
41 affected by §51, is repealed.

1 **Sec. D-20. 22 MRSA §2425-A** is enacted to read:

2 **§2425-A. Confidentiality**

3 **1. Dispensary confidentiality.** Applications, supporting information and other
4 information regarding a registered dispensary are not confidential, except that dispensary
5 information that identifies a qualifying patient, the patient’s physician or the patient’s
6 primary caregivers is confidential.

7 **2. Disclosure of records.** A record maintained by a registered dispensary or the
8 department pursuant to this section that identifies a qualifying patient, a primary
9 caregiver or a qualifying patient's physician is confidential and may not be disclosed
10 except as provided in this subsection. Records may be disclosed:

11 A. To department employees who are responsible for carrying out this chapter;

12 B. Pursuant to court order;

13 C. With the written permission of the patient or the patient’s guardian, if the patient
14 is under guardianship, or a parent, if the patient has not attained 18 years of age;

15 D. As permitted or required for the disclosure of health care information pursuant to
16 section 1711-C; and

17 E. To a patient’s treating physician and to a patient’s primary caregiver for the
18 purpose of carrying out this chapter.

19 **3. Physician communication.** This section does not prohibit a physician from
20 notifying the department if the physician acquires information indicating that a qualifying
21 patient is no longer eligible to use marijuana for medical purposes or that a qualifying
22 patient falsified information that was the basis of the physician’s determination of
23 eligibility for use.

24 **4. Violations.** A person who knowingly violates the confidentiality of information
25 protected under this section commits a civil violation for which a fine of up to \$1,000
26 may be imposed. This subsection does not apply to a physician or staff of a hospice
27 provider or nursing facility named as a primary caregiver or any other person directly
28 associated with a physician or a hospice provider or nursing facility that provides services
29 to a qualifying patient.

30 **Sec. D-21. 22 MRSA §2425-B** is enacted to read:

31 **§2425-B. Reporting**

32 The department shall submit by April 1st each year to the Legislature an annual
33 report that does not disclose any identifying information about qualifying patients or
34 physicians, but does contain, at a minimum:

35 **1. Dispensaries.** The number of registered dispensaries;

36 **2. Patients.** The number of qualifying patients served by the dispensaries in each
37 county; and

1 3. Officers. The number of principal officers, board members and employees of
2 each dispensary.

3 **Sec. D-22. 22 MRSA §2428, sub-§1-A,** as enacted by PL 2009, c. 631, §42 and
4 affected by §51, is amended to read:

5 **1-A. Provisions pertaining to registered dispensary.** For the purpose of assisting a
6 ~~registered~~ qualifying patient who has designated a registered dispensary to cultivate
7 marijuana for the patient's medical use, a registered dispensary may in accordance with
8 rules adopted by the department:

9 A. Possess up to 2 1/2 ounces of prepared marijuana and an incidental amount of
10 marijuana for each patient who has designated the dispensary. For the purposes of
11 this ~~chapter~~ section, any incidental amount of marijuana plants, seeds, stalks and
12 roots, as defined by rule adopted by the department, is lawful for a dispensary to
13 possess and is not included in the amounts of prepared marijuana specified in this
14 paragraph;

15 B. Cultivate up to 6 marijuana plants for each patient who has designated the
16 dispensary to cultivate the plants on the patient's behalf;

17 C. Receive reasonable monetary compensation for costs associated with assisting or
18 for cultivating marijuana for a patient who designated the dispensary through the
19 department's registration process; ~~and~~

20 D. Assist any patient who designated the dispensary through the department's
21 registration process to cultivate marijuana with the medical use or administration of
22 marijuana; and

23 E. Purchase marijuana from a person who holds a license pursuant to section 2392.

24 **Sec. D-23. 22 MRSA §2428, sub-§2, ¶B,** as amended by PL 2009, c. 631, §42
25 and affected by §51, is further amended to read:

26 B. The department shall track the number of ~~registered~~ qualifying patients who
27 designate a dispensary to cultivate marijuana for them and issue to each dispensary a
28 written statement of the number of patients who have designated the dispensary to
29 cultivate marijuana for them. This statement must be updated each time a new
30 ~~registered~~ qualifying patient designates the dispensary or ceases to designate the
31 dispensary. The statement may be transmitted electronically if the department's rules
32 so provide. The department may provide by rule that the updated written statements
33 may not be issued more frequently than once each week.

34 **Sec. D-24. 22 MRSA §2428, sub-§2, ¶C,** as amended by PL 2009, c. 631, §42
35 and affected by §51, is repealed.

36 **Sec. D-25. 22 MRSA §2428, sub-§2, ¶D,** as amended by PL 2009, c. 631, §42
37 and affected by §51, is further amended to read:

38 D. The department may not issue a ~~registry identification card to~~ registration
39 certificate to a dispensary if any principal officer, board member or employee of a the
40 dispensary ~~who~~ has been convicted of a disqualifying drug offense. The department

1 may conduct a background check of each principal officer, board member or
2 employee in order to carry out this provision. The department shall notify the
3 dispensary through its principal officers or board members in writing of the reason
4 for denying the ~~registry identification card~~ registration certificate.

5 **Sec. D-26. 22 MRSA §2428, sub-§3, ¶B**, as amended by PL 2009, c. 631, §42
6 and affected by §51, is further amended to read:

7 B. Minimum oversight requirements for dispensaries and the one permitted
8 additional location at which the dispensary cultivates marijuana for medical use by
9 ~~registered~~ qualifying patients who have designated the dispensary to cultivate for
10 them;

11 **Sec. D-27. 22 MRSA §2428, sub-§3, ¶C**, as amended by PL 2009, c. 631, §42
12 and affected by §51, is further amended to read:

13 C. Minimum record-keeping requirements for dispensaries, including recording the
14 disposal of marijuana that is not distributed by the dispensary to ~~registered~~ qualifying
15 patients who have designated the dispensary to cultivate for them;

16 **Sec. D-28. 22 MRSA §2428, sub-§3, ¶D**, as amended by PL 2009, c. 631, §42
17 and affected by §51, is further amended to read:

18 D. Minimum security requirements for dispensaries and any additional location at
19 which the dispensary cultivates marijuana for medical use by ~~registered~~ qualifying
20 patients who have designated the dispensary to cultivate for them; and

21 **Sec. D-29. 22 MRSA §2428, sub-§5**, as amended by PL 2009, c. 631, §42 and
22 affected by §51, is further amended to read:

23 **5. Inspection.** A dispensary and any additional location at which the dispensary
24 cultivates marijuana for medical use by ~~registered~~ qualifying patients who have
25 designated the dispensary to cultivate for them is subject to reasonable inspection by the
26 department. The department may enter the dispensary and the one permitted additional
27 location at which the dispensary cultivates marijuana at any time, without notice, to carry
28 out an inspection under this subsection.

29 **Sec. D-30. 22 MRSA §2428, sub-§6, ¶A**, as amended by PL 2009, c. 631, §42
30 and affected by §51, is further amended to read:

31 A. A dispensary must be operated on a not-for-profit basis for the mutual benefit of
32 ~~registered~~ qualifying patients who have designated the dispensary to cultivate
33 marijuana. The bylaws of a dispensary and its contracts with ~~registered~~ qualifying
34 patients must contain such provisions relative to the disposition of revenues and
35 receipts as may be necessary and appropriate to establish and maintain its not-for-
36 profit status. A dispensary need not be recognized as a tax-exempt organization
37 under 26 United States Code, Section 501(c)(3) but is required to incorporate
38 pursuant to Title 13-B and to maintain the corporation in good standing with the
39 Secretary of State.

1 **Sec. D-31. 22 MRSA §2428, sub-§6, ¶E**, as amended by PL 2009, c. 631, §42
2 and affected by §51, is further amended to read:

3 E. A dispensary shall implement appropriate security measures to deter and prevent
4 unauthorized entrance into areas containing marijuana and the theft of marijuana at
5 the dispensary and the one permitted additional location at which the dispensary
6 cultivates marijuana for medical use by ~~registered~~ qualifying patients who have
7 designated the dispensary to cultivate for them.

8 **Sec. D-32. 22 MRSA §2428, sub-§6, ¶G**, as amended by PL 2009, c. 631, §42
9 and affected by §51, is repealed.

10 **Sec. D-33. 22 MRSA §2428, sub-§6, ¶I**, as amended by PL 2009, c. 631, §42
11 and affected by §51, is repealed.

12 **Sec. D-34. 22 MRSA §2428, sub-§6, ¶J**, as enacted by PL 2009, c. 631, §42 and
13 affected by §51, is amended to read:

14 J. A dispensary that is required to obtain a license for the preparation of food
15 pursuant to section 2167 shall obtain the license prior to preparing goods containing
16 marijuana for medical use by a ~~registered~~ qualifying patient.

17 **Sec. D-35. 22 MRSA §2428, sub-§7**, as amended by PL 2009, c. 631, §42 and
18 affected by §51, is further amended to read:

19 **7. Maximum amount of marijuana to be dispensed.** A dispensary or a principal
20 officer, board member or employee of a dispensary may not dispense more than 2 1/2
21 ounces of prepared marijuana to a ~~registered~~ qualifying patient or to a primary caregiver
22 on behalf of a ~~registered~~ qualifying patient during a 15-day period.

23 **Sec. D-36. 22 MRSA §2428, sub-§9**, as amended by PL 2009, c. 631, §42 and
24 affected by §51, is repealed.

25 **Sec. D-37. 22 MRSA §2429**, as amended by PL 2009, c. 631, §§43 and 44 and
26 affected by §51, is repealed and the following enacted in its place:

27 **§2429. Enforcement**

28 **1. Department fails to adopt rules.** If the department fails to adopt rules to
29 implement this chapter by December 1, 2011, a qualifying patient may commence an
30 action in Superior Court to compel the department to perform the actions mandated
31 pursuant to the provisions of this chapter.

32 **2. Department fails to respond to application.** If the department fails to issue or
33 deny a registration certificate in response to a valid dispensary application or renewal
34 within 45 days of submission, the registration certificate is deemed granted.

35 **Sec. D-38. 22 MRSA §2430, sub-§2, ¶A**, as enacted by PL 2009, c. 631, §45
36 and affected by §51, is amended to read:

1 A. All money received as a result of applications and reapplications for registration
2 as a ~~qualifying patient, primary caregiver and~~ dispensary;

3 **Sec. D-39. 22 MRSA §2430, sub-§2, ¶B**, as enacted by PL 2009, c. 631, §45
4 and affected by §51, is repealed.

5 **Sec. D-40. 22 MRSA §2430-A**, as enacted by PL 2009, c. 631, §46 and affected
6 by §51, is amended to read:

7 **§2430-A. Compliance**

8 The department may take action necessary to ensure compliance with this chapter,
9 including but not limited to obtaining, possessing and performing laboratory testing on
10 marijuana from ~~registered~~ qualifying patients, ~~registered~~ primary caregivers and
11 registered dispensaries in accordance with this chapter.

12 **PART E**

13 **Sec. E-1. 17-A MRSA §1111-A, sub-§1**, as amended by IB 2009, c. 1, §2, is
14 further amended to read:

15 **1.** As used in this section the term "drug paraphernalia" means all equipment,
16 products and materials of any kind that are used or intended for use in planting,
17 propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,
18 producing, processing, preparing, testing, analyzing, packaging, repackaging, storing,
19 containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the
20 human body a scheduled drug in violation of this chapter or Title 22, section 2383, except
21 that this section does not apply to a person who is authorized to possess marijuana for
22 medical use pursuant to Title 22, chapter 558-C, to the extent the drug paraphernalia is
23 used for that person's medical use of marijuana or as allowed under Title 22, chapter 558.
24 It includes, but is not limited to:

25 A. Kits used or intended for use in planting, propagating, cultivating, growing or
26 harvesting of any species of plant which is a scheduled drug or from which a
27 scheduled drug can be derived;

28 B. Kits used or intended for use in manufacturing, compounding, converting,
29 producing, processing or preparing scheduled drugs;

30 C. Isomerization devices used or intended for use in increasing the potency of any
31 species of plant that is a scheduled drug;

32 D. Testing equipment used or intended for use in identifying or in analyzing the
33 strength, effectiveness or purity of scheduled drugs;

34 E. Scales and balances used or intended for use in weighing or measuring scheduled
35 drugs;

36 F. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite,
37 dextrose and lactose, used or intended for use in cutting scheduled drugs;

- 1 G. Separation gins and sifters, used or intended for use in removing twigs and seeds
2 from, or in otherwise cleaning or refining, marijuana;
- 3 H. Blenders, bowls, containers, spoons and mixing devices used or intended for use
4 in compounding scheduled drugs;
- 5 I. Capsules, balloons, envelopes and other containers used or intended for use in
6 packaging small quantities of scheduled drugs;
- 7 J. Containers and other objects used or intended for use in storing or concealing
8 scheduled drugs; and
- 9 K. Objects used or intended for use in ingesting, inhaling or otherwise introducing
10 marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - 11 (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without
12 screens, permanent screens, hashish heads or punctured metal bowls;
 - 13 (2) Water pipes;
 - 14 (3) Carburetion tubes and devices;
 - 15 (4) Smoking and carburetion masks;
 - 16 (5) Roach clips, meaning objects used to hold burning material, such as a
17 marijuana cigarette that has become too small or too short to be held in the hand;
 - 18 (6) Miniature cocaine spoons and cocaine vials;
 - 19 (7) Chamber pipes;
 - 20 (8) Carburetor pipes;
 - 21 (9) Electric pipes;
 - 22 (10) Air-driven pipes;
 - 23 (11) Chillums;
 - 24 (12) Bongs; or
 - 25 (13) Ice pipes or chillers.

26 **Sec. E-2. 17-A MRSA §1111-A, sub-§4**, as corrected by RR 2009, c. 2, §39, is
27 amended to read:

- 28 **4.** A person is guilty of the sale and use of drug paraphernalia if:
 - 29 A. The person uses drug paraphernalia to plant, propagate, cultivate, grow, harvest,
30 manufacture, compound, convert, produce, process, prepare, test, analyze, pack,
31 repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the
32 human body a scheduled drug in violation of this chapter or Title 22, section 2383.
33 Violation of this paragraph is a civil violation for which a fine of \$300 must be
34 adjudged, none of which may be suspended;
 - 35 B. The person possesses with intent to use drug paraphernalia to plant, propagate,
36 cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare,
37 test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise

1 introduce into the human body a scheduled drug in violation of this chapter or Title
2 22, section 2383. Violation of this paragraph is a civil violation for which a fine of
3 \$300 must be adjudged, none of which may be suspended;

4 C. The person trafficks in or furnishes drug paraphernalia knowing, or under
5 circumstances when one reasonably should know, that it will be used to plant,
6 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
7 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
8 inhale or otherwise introduce into the human body a scheduled drug in violation of
9 this chapter or Title 22, section 2383, and the person to whom that person is
10 trafficking or furnishing drug paraphernalia is:

11 (1) At least 16 years of age. Violation of this subparagraph is a Class E crime;
12 or

13 (2) Less than 16 years of age. Violation of this subparagraph is a Class D crime;
14 or

15 D. The person places in a newspaper, magazine, handbill or other publication an
16 advertisement knowing, or under circumstances when one reasonably should know,
17 that the purpose of the advertisement, in whole or in part, is to promote the sale of
18 objects intended for use as drug paraphernalia. Violation of this paragraph is a Class
19 E crime.

20 This subsection does not apply to a person who is authorized to possess marijuana under
21 Title 22, section 2390 or 2391 or who is authorized to possess marijuana for medical use
22 pursuant to Title 22, chapter 558-C to the extent the drug paraphernalia is required for
23 that person's medical use of marijuana.

24 **Sec. E-3. 17-A MRSA §1117, sub-§4**, as enacted by PL 2009, c. 631, §3 and
25 affected by §51, is amended to read:

26 **4.** A person is not guilty of cultivating marijuana if the conduct is expressly
27 authorized by Title 22, chapter 558-C or Title 22, section 2390 or 2391.

28 **PART F**

29 **Sec. F-1. 7 MRSA §483, first ¶**, as amended by PL 2009, c. 631, §1 and affected
30 by §51, is further amended to read:

31 For the purpose of this chapter and chapter 103, unless the term is more specifically
32 defined, "adulterated" means made impure or inferior by adding extraneous ingredients.
33 Goods that are prepared in food establishments that are licensed facilities under Title 22,
34 section 2167 and that contain marijuana for medical use by a ~~registered~~ qualifying
35 patient, pursuant to Title 22, chapter 558-C, are not considered to be adulterated under
36 this subchapter.

37 **Sec. F-2. 7 MRSA §2231, sub-§3**, as enacted by PL 2009, c. 320, §1, is amended
38 to read:

1 **3. Application.** A person desiring to grow industrial hemp for commercial purposes
2 shall apply to the commissioner for a license on a form prescribed by the commissioner.
3 The application must include the name and address of the applicant, the legal description
4 of the land area to be used for the production of industrial hemp and a map, an aerial
5 photograph or global positioning coordinates sufficient for locating the production fields.
6 ~~Except for employees of the Maine Agricultural Experiment Station and the University of~~
7 ~~Maine System involved in research and related activities, an applicant for an initial~~
8 ~~licensure must submit a set of the applicant's fingerprints, taken by a law enforcement~~
9 ~~officer, and any other information necessary to complete a statewide and nationwide~~
10 ~~criminal history record check by the Department of Public Safety, State Bureau of~~
11 ~~Identification and the Federal Bureau of Investigation. All costs associated with the~~
12 ~~criminal history record check are the responsibility of the applicant and must be~~
13 ~~submitted with the fingerprints. Criminal history records provided to the commissioner~~
14 ~~under this section are confidential. The results of criminal records checks received under~~
15 ~~this subsection may only be used in determining an applicant's eligibility for licensure. A~~
16 ~~person with a prior criminal conviction is not eligible for licensure.~~

17 **Sec. F-3. 7 MRSA §2231, sub-§4,** as enacted by PL 2009, c. 320, §1, is amended
18 to read:

19 **4. License issued.** Upon review and approval of an application, the commissioner
20 shall notify the applicant and request that the application fee determined under subsection
21 7 be submitted. Upon receipt of the appropriate fee ~~and in accordance with subsection 8,~~
22 the commissioner shall issue a license, which is valid for a period of one year and only
23 for the site or sites specified in the license.

24 **Sec. F-4. 7 MRSA §2231, sub-§5,** as enacted by PL 2009, c. 320, §1, is repealed.

25 **Sec. F-5. 7 MRSA §2231, sub-§8,** as enacted by PL 2009, c. 320, §1, is repealed.

26 **Sec. F-6. 22 MRSA §2152, sub-§4-A,** as amended by PL 2009, c. 631, §4 and
27 affected by §51, is further amended to read:

28 **4-A. Food establishment.** "Food establishment" means a factory, plant, warehouse
29 or store in which food and food products are manufactured, processed, packed, held for
30 introduction into commerce or sold. "Food establishment" includes a ~~registered~~ primary
31 caregiver, as defined in section 2422, subsection 11, and a registered dispensary, as
32 defined in section 2422, subsection 6, that prepare food containing marijuana for medical
33 use by a ~~registered~~ qualifying patient pursuant to chapter 558-C. The following
34 establishments are not considered food establishments required to be licensed under
35 section 2167:

- 36 A. Eating establishments, as defined in section 2491, subsection 7;
- 37 B. Fish and shellfish processing establishments inspected under Title 12, section
38 6101, 6102 or 6856;
- 39 C. Storage facilities for native produce;

1 D. Establishments such as farm stands and farmers' markets primarily selling fresh
2 produce not including dairy and meat products;

3 E. Establishments engaged in the washing, cleaning or sorting of whole produce,
4 provided the produce remains in essentially the same condition as when harvested.
5 The whole produce may be packaged for sale, provided that packaging is not by a
6 vacuum packaging process or a modified atmosphere packaging process; and

7 F. Establishments that are engaged in the drying of single herbs that are generally
8 recognized as safe under 21 Code of Federal Regulations, Sections 182 to 189. The
9 single herbs may be packaged for sale, provided that packaging is not by a vacuum
10 packaging process or a modified atmosphere packaging process.

11 **Sec. F-7. 22 MRSA §2158**, as amended by PL 2009, c. 631, §5 and affected by
12 §51, is further amended to read:

13 **§2158. Addition of certain substances limited**

14 Any poisonous or deleterious substance added to any food, except where such
15 substance is required in the production thereof or cannot be avoided by good
16 manufacturing practice, must be deemed to be unsafe for purposes of the application of
17 section 2156, subsection 1, paragraph B; but when such substance is so required or cannot
18 be avoided, the Commissioner of Agriculture, Food and Rural Resources shall adopt rules
19 limiting the quantity therein or thereon to such extent as the commissioner finds
20 necessary for the protection of public health, and any quantity exceeding the limits so
21 fixed must be deemed to be unsafe for purposes of the application of section 2156,
22 subsection 1, paragraph B. While such a rule is in effect limiting the quantity of any such
23 substance in the case of any food, such food may not, by reason of bearing or containing
24 any added amount of such substance, be considered to be adulterated within the meaning
25 of section 2156, subsection 1, paragraph A. In determining the quantity of such added
26 substance to be tolerated in or on different articles of food, the commissioner shall take
27 into account the extent to which the use of such substance is required or cannot be
28 avoided in the production of each such article and the other ways in which the consumer
29 may be affected by the same or other poisonous or deleterious substances. Goods that are
30 prepared in a food establishment that is a licensed facility under section 2167 and that
31 contain marijuana for medical use by a ~~registered~~ qualifying patient, pursuant to chapter
32 558-C, are not considered to be adulterated under this subchapter.

33 **SUMMARY**

34 This bill reforms state marijuana laws by establishing a special tax rate for marijuana,
35 legalizing the personal use and cultivation of marijuana, legalizing and licensing certain
36 commercial marijuana-related activities, while providing provisions to protect minors,
37 employers and schools, and removing the registry system from the Maine Medical Use of
38 Marijuana Act.

39 Part A of the bill establishes a tax rate of 7%, beginning January 1, 2012, for
40 marijuana that is sold for commercial or medical purposes. It directs the State Controller
41 to distribute the revenue generated by the tax equally among specific programs that

1 benefit farmers, preserve land, assist law enforcement, provide aid to a state
2 weatherization program and support higher education. It directs the Department of
3 Administrative and Financial Services, Bureau of Revenue Services to report annually,
4 beginning January 30, 2013, the amount of tax revenue generated and the amount
5 distributed to each program to the joint standing committees of the Legislature having
6 jurisdiction over appropriations and financial affairs and taxation matters. The bill directs
7 the Bureau of Revenue Services to review methods for ensuring that all marijuana that is
8 sold in the State is assessed and to report its findings and recommendations to the Joint
9 Standing Committee on Taxation. The bureau must submit the report and any necessary
10 legislation by November 1, 2011.

11 Part B of the bill allows a person 21 years of age or older to possess, purchase and
12 use marijuana within certain limits and to cultivate a limited amount of marijuana for
13 personal use. It allows a person to possess up to one pound of marijuana, possess
14 marijuana paraphernalia and an incidental amount of marijuana. It allows a person to
15 cultivate and store marijuana for personal use within 75 square feet of space and to
16 purchase up to 2 1/2 ounces of marijuana or seedlings from someone who is licensed to
17 sell these products. The bill includes restrictions that impose the same limitations on use
18 that apply to tobacco. It requires those cultivating marijuana to secure it from access by
19 unauthorized persons and access by minors. It also provides protections for schools and
20 employers.

21 It includes specific requirements for the operations of commercial marijuana-related
22 activities regarding the location of operations, security measures and record keeping as
23 well as requirements for the licensee such as residency for a year prior to applying for a
24 license. It allows a licensee up to 2,000 square feet of space for commercial marijuana
25 cultivation and allows a licensee to sell no more than 2 1/2 ounces to any one individual
26 per week. It limits the number of licenses as determined by department rule in the first
27 year and requires that provisional licenses be automatically granted for dispensaries and
28 persons who are registered as primary caregivers on June 30, 2011. It provides a funding
29 mechanism for regulation of commercial marijuana-related activities. It provides special
30 protections for minors, employers and schools.

31 Part C of the bill establishes the Community Policing Grant Program within the
32 Department of Public Safety, which is funded by part of the revenue generated from the
33 marijuana tax, to assist county and municipal law enforcement with community policing
34 efforts. The Commissioner of Public Safety shall adopt rules for administering the
35 program by December 1, 2011.

36 Part D of the bill removes the patient and primary caregiver registry system from the
37 Maine Medical Use of Marijuana Act and repeals the provision requiring written
38 certification from a physician for the medical use of marijuana as part of this registry
39 system. It also repeals the requirement for patients, primary caregivers and dispensaries
40 to keep marijuana in an enclosed, locked facility. Instead, it requires that the marijuana
41 be secured from unauthorized access or from access by a person under 21 years of age. It
42 allows dispensaries to acquire prepared marijuana or marijuana plants from persons
43 licensed to cultivate or sell marijuana commercially. It updates the confidentiality and
44 reporting requirements in the law to reflect the removal of the registry.

1 Part E of the bill updates the existing exceptions regarding possession of marijuana
2 for medical use in the Maine Criminal Code.

3 Part F of the bill amends the existing laws on industrial hemp to allow a person to
4 apply to the Department of Agriculture, Food and Rural Resources for a license to grow
5 industrial hemp. It removes provisions in the law that make licensing of industrial hemp
6 farming contingent upon federal action. This Part also updates various provisions of the
7 Maine Revised Statutes, Title 7 and Title 22 that are affected by changes in terminology
8 proposed to the Maine medical marijuana law in this bill.