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Legislative Document

No. 1621

S.P. 518

In Senate, April 23, 2019

**An Act To Allow Delivery of Adult Use Marijuana and Adult Use
Marijuana Products by an Approved Marijuana Store**

(EMERGENCY)

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.
Cosponsored by Representative HANDY of Lewiston and
Senator: MIRAMANT of Knox, Representatives: ANDREWS of Paris, CEBRA of Naples,
CUDDY of Winterport, FECTION of Augusta, HICKMAN of Winthrop, O'CONNOR of
Berwick, STROM of Pittsfield.

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

3 **Whereas,** current law permits adult use marijuana, but rules have not been adopted
4 concerning licensing retail sellers of adult use marijuana; and

5 **Whereas,** in the absence of rules concerning licensing the retail sale of adult use
6 marijuana, persons have been engaging in marijuana delivery activities with no oversight
7 or accountability to the State or state authorities; and

8 **Whereas,** it is expected that rules concerning licensing the retail sale of adult use
9 marijuana will be adopted before 90 days after the adjournment of the First Regular
10 Session of the 129th Legislature; and

11 **Whereas,** it is necessary that provisions concerning the delivery of adult use
12 marijuana be in effect at the time that the rules regarding adult use marijuana are adopted
13 to integrate the provisions in this Act with the overall statutory and regulatory scheme
14 concerning licensing the retail sale of marijuana for adult use; and

15 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
16 the meaning of the Constitution of Maine and require the following legislation as
17 immediately necessary for the preservation of the public peace, health and safety; now,
18 therefore,

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

20 **Sec. 1. 28-B MRSA §102, sub-§13-A** is enacted to read:

21 **13-A. Delivery service.** "Delivery service" means a service approved under this
22 chapter by which a marijuana store delivers adult use marijuana and adult use marijuana
23 products.

24 **Sec. 2. 28-B MRSA §102, sub-§23,** as enacted by PL 2017, c. 409, Pt. A, §6, is
25 amended to read:

26 **23. Licensed premises.** "Licensed premises" means the premises specified in a
27 license to operate a marijuana establishment within or from which the licensee is
28 authorized under this chapter and the rules adopted pursuant to this chapter to cultivate,
29 manufacture, distribute, test, store, deliver or sell adult use marijuana or adult use
30 marijuana products.

31 **Sec. 3. 28-B MRSA §103, sub-§1, ¶C,** as enacted by PL 2017, c. 409, Pt. A, §6,
32 is amended to read:

33 C. Use, possess, transport, transfer, deliver, furnish or purchase marijuana or
34 marijuana products.

35 **Sec. 4. 28-B MRSA §105, first ¶,** as enacted by PL 2017, c. 409, Pt. A, §6, is
36 amended to read:

1 The department shall implement and administer a system, referred to in this section
2 as "the tracking system," for the tracking of adult use marijuana and adult use marijuana
3 products from immature marijuana plant to the point of retail sale, receipt by delivery
4 recipient, disposal or destruction.

5 **Sec. 5. 28-B MRSA §113, sub-§2, ¶G-1** is enacted to read:

6 G-1. The total reported volume and value of adult use marijuana and adult use
7 marijuana products delivered by all marijuana stores in the prior calendar year, when
8 available;

9 **Sec. 6. 28-B MRSA §205, sub-§3, ¶A**, as enacted by PL 2017, c. 409, Pt. A, §6,
10 is amended to read:

11 A. A licensee that has been issued a conditional license by the department may not
12 engage in the cultivation, manufacture, testing, delivery or sale of adult use marijuana
13 or adult use marijuana products until the department has issued an active license to
14 the licensee pursuant to subsection 4.

15 **Sec. 7. 28-B MRSA §207, sub-§2-A** is enacted to read:

16 **2-A. Fee for delivery service by a marijuana store.** For an approval for a
17 marijuana store to operate a delivery service, the department shall require payment of an
18 application fee of \$250.

19 **Sec. 8. 28-B MRSA §402, sub-§3-A** is enacted to read:

20 **3-A. Delivery service.** A marijuana store may not operate a delivery service within
21 a municipality unless:

22 A. The marijuana store has met the requirements of subsection 3;

23 B. The municipality has authorized the operation of a delivery service under
24 subsection 3, paragraph A; and

25 C. The marijuana store has obtained approval for the delivery service from the
26 department under section 504-A, subsection 1.

27 **Sec. 9. 28-B MRSA §403, sub-§3-A** is enacted to read:

28 **3-A. Delivery service.** A marijuana store may not operate a delivery service within
29 a town, plantation or township located within the unorganized and deorganized areas
30 unless:

31 A. The marijuana store has met the requirements of subsection 3;

32 B. The town, plantation or, in the case of a township, the county commissioners of
33 the county in which the township is located has authorized the operation of a delivery
34 service under subsection 3, paragraph A; and

35 C. The marijuana store has obtained approval for the delivery service from the
36 department under section 504-A, subsection 1.

1 **Sec. 10. 28-B MRSA §504, sub-§2, ¶C**, as enacted by PL 2017, c. 409, Pt. A,
2 §6, is amended to read:

3 C. Sell adult use marijuana, adult use marijuana products or marijuana plants using:

4 (1) An automated dispensing or vending machine;

5 (2) A drive-through sales window;

6 (3) An Internet-based sales platform; or

7 (4) A delivery service except for a delivery service operated under section
8 504-A; or

9 **Sec. 11. 28-B MRSA §504-A** is enacted to read:

10 **§504-A. Operation of delivery service**

11 A marijuana store may operate a delivery service upon application to and approval
12 from the department. A delivery service must be operated in accordance with the
13 provisions of this section and the rules adopted pursuant to this chapter.

14 **1. Products authorized for delivery.** A delivery service is authorized to deliver the
15 following products:

16 A. Adult use marijuana; and

17 B. Adult use marijuana products.

18 **2. Delivery service.** A delivery service shall conduct its operations from the
19 marijuana store's licensed premises or from a storage facility approved under this
20 subsection. Upon approval by the department, a marijuana store may maintain a storage
21 facility separate from the marijuana store's retail facility. A storage facility may be
22 located in the same municipality or a municipality other than the municipality in which
23 the marijuana store's retail facility is located. An approved storage facility becomes part
24 of the licensed premises of the marijuana store for delivery service purposes and is
25 subject to inspection requirements for licensed premises under section 512. A marijuana
26 store may operate a delivery service from a marijuana store's licensed premises or locate a
27 storage facility only in a municipality that has authorized the operation of a delivery
28 service under section 402, subsection 3, paragraph B or section 403, subsection 3,
29 paragraph B. A delivery service may deliver to a recipient located in a municipality that
30 has not authorized the operation of a marijuana establishment or a delivery service under
31 subchapter 4. A delivery vehicle or its driver may possess up to 25 ounces of product
32 authorized under subsection 1 while performing a delivery. For purposes of this
33 subsection, "municipality" includes a town, plantation or township in the unorganized or
34 deorganized areas.

35 **3. Prohibitions.** In addition to the prohibitions under section 504, subsection 2, a
36 delivery service may not:

37 A. Deliver adult use marijuana or adult use marijuana products to a person who is
38 visibly intoxicated; or

1 B. Allow a person under 21 years of age in a delivery vehicle during the course of a
2 delivery.

3 **4. Verification of recipient's age.** A person must be 21 years of age or older to
4 receive services from a delivery service. A delivery service may not deliver a product
5 under subsection 1 to a person under 21 years of age.

6 A. Prior to completing a delivery, an employee of the delivery service licensee shall
7 verify that the recipient has a valid government-issued photographic identification
8 card, or other acceptable photographic identification, demonstrating that the recipient
9 is 21 years of age or older.

10 B. The department shall by rule determine the forms of photographic identification
11 that a delivery store licensee may accept when verifying a recipient's age pursuant to
12 paragraph A.

13 **5. Qualification of drivers.** If an employee of the delivery service licensee
14 performs a delivery by use of a motor vehicle, the employee:

15 A. Must be 21 years of age or older pursuant to section 506;

16 B. May not have been convicted of or adjudicated as having committed a violation
17 under Title 29-A, chapter 23 or have had the employee's operator's license suspended
18 or revoked for a traffic infraction or motor vehicle violation;

19 C. May not have been convicted of a disqualifying drug offense or any offense under
20 Title 17-A, chapter 9, 11, 12, 13 or 27;

21 D. Shall undergo a criminal history record check under section 204.

22 **6. Tracking.** In accordance with the requirements of section 105, a marijuana store
23 licensee shall track all adult use marijuana and adult use marijuana products delivered to
24 a delivery recipient.

25 **Sec. 12. 28-B MRSA §512, sub-§1,** as enacted by PL 2017, c. 409, Pt. A, §6, is
26 amended to read:

27 **1. Inspections.** A licensee shall submit to an inspection of its licensed premises,
28 including, but not limited to, any places of storage ~~and~~, any locked areas and any
29 vehicles, upon demand and without notice during all business hours and other times of
30 apparent activity by the department, a criminal justice agency or an official authorized by
31 the municipality in which the licensed premises are located.

32 For the purposes of this subsection, "municipality" has the same meaning as in section
33 212.

34 **Sec. 13. 28-B MRSA §601,** as enacted by PL 2017, c. 409, Pt. A, §6, is amended
35 to read:

36 **§601. Testing program established**

37 The department shall establish a testing program for adult use marijuana and adult
38 use marijuana products. Except as otherwise provided in this subchapter, the program

1 must require a licensee, prior to selling or, distributing or delivering adult use marijuana
2 or an adult use marijuana product to a consumer or to another licensee, to submit the
3 marijuana or marijuana product to a testing facility for testing to ensure that the marijuana
4 or marijuana product does not exceed the maximum level of allowable contamination for
5 any contaminant that is injurious to health and for which testing is required and to ensure
6 correct labeling. The department shall adopt rules establishing a testing program pursuant
7 to this section, rules identifying the types of contaminants that are injurious to health for
8 which marijuana and marijuana products must be tested under this subchapter and rules
9 regarding the maximum level of allowable contamination for each contaminant. Rules
10 adopted pursuant to this subchapter are routine technical rules as defined in Title 5,
11 chapter 375, subchapter 2-A.

12 **Sec. 14. 28-B MRSA §602, first ¶**, as enacted by PL 2017, c. 409, Pt. A, §6, is
13 amended to read:

14 A licensee may not sell or, distribute or deliver adult use marijuana or an adult use
15 marijuana product to a consumer or to another licensee under this chapter unless the
16 marijuana or marijuana product has been tested pursuant to this subchapter and the rules
17 adopted pursuant to this subchapter and that mandatory testing has demonstrated that the
18 marijuana or marijuana product does not exceed the maximum level of allowable
19 contamination for any contaminant that is injurious to health and for which testing is
20 required.

21 **Sec. 15. 28-B MRSA §605, first ¶**, as enacted by PL 2017, c. 409, Pt. A, §6, is
22 amended to read:

23 Notwithstanding section 602, a licensee may sell, distribute or ~~furnish~~ deliver to a
24 consumer or to another licensee adult use marijuana or an adult use marijuana product
25 that the licensee has not submitted for testing in accordance with this subchapter and rules
26 adopted pursuant to this subchapter if:

27 **Sec. 16. 28-B MRSA §701**, as enacted by PL 2017, c. 409, Pt. A, §6, is amended
28 to read:

29 **§701. Labeling and packaging**

30 **1. Labeling requirements.** Adult use marijuana and adult use marijuana products to
31 be sold or, offered for sale or delivered by a licensee to a consumer in accordance with
32 this chapter must be labeled with the following information, as applicable based on the
33 marijuana or marijuana product to be sold:

34 A. The license numbers of the cultivation facility, the products manufacturing
35 facility and the marijuana store where the adult use marijuana or adult use marijuana
36 product was cultivated, manufactured and offered for sale;

37 B. An identity statement and universal symbol;

38 C. Health and safety warning labels as required by rules adopted by the department
39 after consultation with the Department of Health and Human Services, Maine Center
40 for Disease Control and Prevention;

- 1 D. The batch number;
- 2 E. A net weight statement;
- 3 F. Information on the THC potency of the marijuana or marijuana product and the
- 4 potency of such other cannabinoids or other chemicals in the marijuana or marijuana
- 5 product, including, but not limited to, cannabidiol;
- 6 G. Information on the amount of THC and cannabidiol per serving of the marijuana
- 7 or marijuana product and, for edible marijuana products, the number of servings per
- 8 package;
- 9 H. Information on gases, solvents and chemicals used in marijuana extraction;
- 10 I. Instructions on usage;
- 11 J. For adult use marijuana products:
 - 12 (1) The amount of marijuana concentrate per serving of the product, as measured
 - 13 in grams, and the amount of marijuana concentrate per package of the product, as
 - 14 measured in grams;
 - 15 (2) A list of ingredients and possible allergens; and
 - 16 (3) A recommended use date or expiration date;
- 17 K. For edible marijuana products, a nutritional fact panel; and
- 18 L. Any other information required by rule by the department.

19 **2. Packaging requirements.** Adult use marijuana and adult use marijuana products
20 to be sold or offered for sale or delivered by a licensee to a consumer in accordance with
21 this chapter must be packaged in the following manner, as applicable based on the
22 marijuana or marijuana product to be sold:

- 23 A. Adult use marijuana and adult use marijuana products must be prepackaged in
- 24 child-resistant and tamper-evident packaging or must be placed in child-resistant and
- 25 tamper-evident packaging at the final point of sale to a consumer;
- 26 B. Adult use marijuana and adult use marijuana products must be prepackaged in
- 27 opaque packaging or an opaque container or must be placed in opaque packaging or
- 28 an opaque container at the final point of sale to a consumer;
- 29 C. Packaging for multiserving liquid adult use marijuana products must include an
- 30 integral measurement component and a child-resistant cap; and
- 31 D. Packaging must conform to all other applicable requirements and restrictions
- 32 imposed by rule by the department.

33 **3. Other approved labeling and packaging.** Adult use marijuana and adult use
34 marijuana products to be sold or offered for sale or delivered by a licensee to a consumer
35 in accordance with this chapter may include on the label or the packaging of the
36 marijuana or marijuana product:

- 37 A. A statement of compatibility with dietary practices;
- 38 B. Depictions of geometric shapes or marijuana leaves;

1 C. Use of the terms "organic," "organically cultivated" or "organically grown" in
2 accordance with requirements regarding the use of such terms as adopted by rule by
3 the department; and

4 D. Any other information that has been preapproved by the department.

5 **4. Labeling and packaging prohibitions.** Adult use marijuana and adult use
6 marijuana products to be sold or offered for sale or delivered by a licensee to a consumer
7 in accordance with this chapter:

8 A. May not be labeled or packaged in violation of a federal trademark law or
9 regulation or in a manner that would cause a reasonable consumer confusion as to
10 whether the marijuana or marijuana product was a trademarked product;

11 B. May not be labeled or packaged in a manner that is specifically designed to appeal
12 particularly to a person under 21 years of age;

13 C. May not be labeled or packaged in a manner that obscures identifying information
14 on the label or uses a false or deceptive label;

15 D. May not be sold or offered for sale or delivered using a label or packaging that
16 depicts a human, animal or fruit; and

17 E. May not be labeled or packaged in violation of any other labeling or packaging
18 requirement or restriction imposed by rule by the department.

19 **Sec. 17. 28-B MRSA §703**, as enacted by PL 2017, c. 409, Pt. A, §6, is amended
20 to read:

21 **§703. Other health and safety requirements and restrictions; rules**

22 **1. Requirements and restrictions for edible marijuana products.** In addition to
23 all other applicable provisions of this subchapter, edible marijuana products to be sold or
24 offered for sale or delivered by a licensee to a consumer in accordance with this chapter:

25 A. May be manufactured in geometric shapes or in the shape of a marijuana leaf;

26 B. Must be manufactured in a manner that results in the cannabinoid content within
27 the product being homogeneous throughout the product or throughout each element
28 of the product that has a cannabinoid content;

29 C. Must be manufactured in a manner that results in the amount of marijuana
30 concentrate within the product being homogeneous throughout the product or
31 throughout each element of the product that contains marijuana concentrate;

32 D. Must have a universal symbol stamped or embossed on each serving of the
33 product;

34 E. May not be manufactured in the distinct shape of a human, animal or fruit;

35 F. May not contain more than 10 milligrams of THC per serving of the product and
36 may not contain more than 100 milligrams of THC per package of the product;

37 G. May not contain additives that are:

38 (1) Toxic or harmful to human beings;

1 (2) Specifically designed to make the product more addictive or that are
2 misleading to consumers; or

3 (3) Specifically designed to make the product appeal particularly to a person
4 under 21 years of age; and

5 H. May not involve the addition of marijuana to a trademarked food or drink
6 product, except when the trademarked product is used as a component of or
7 ingredient in the edible marijuana product and the edible marijuana product is not
8 advertised or described for sale as containing the trademarked product.

9 **2. Health and safety rules.** The department shall adopt labeling, packaging and
10 other necessary health and safety rules for adult use marijuana and adult use marijuana
11 products to be sold or offered for sale or delivered by a licensee to a consumer in
12 accordance with this chapter. Rules adopted pursuant to this subsection must establish
13 mandatory health and safety standards applicable to the cultivation of adult use
14 marijuana, the manufacture of adult use marijuana products and the packaging and
15 labeling of adult use marijuana and adult use marijuana products sold or delivered by a
16 licensee to a consumer. Such rules must address, but are not limited to:

17 A. Requirements for the storage, warehousing and transportation of adult use
18 marijuana and adult use marijuana products by licensees;

19 B. Sanitary standards for marijuana establishments, including, but not limited to,
20 sanitary standards for the manufacture of adult use marijuana and adult use marijuana
21 products; and

22 C. Limitations on the display of adult use marijuana and adult use marijuana
23 products at marijuana stores.

24 **Emergency clause.** In view of the emergency cited in the preamble, this
25 legislation takes effect when approved.

26 **SUMMARY**

27 This bill amends the Marijuana Legalization Act to allow delivery of adult use
28 marijuana and adult use marijuana products by a marijuana store if the municipality or
29 town, plantation or township in which the marijuana store is located authorizes the
30 operation of delivery services and the marijuana store receives approval to operate the
31 delivery service from the Department of Administrative and Financial Services. A
32 marijuana store is allowed to maintain a separate storage facility approved by the
33 department in which to store product or from which to conduct delivery service
34 operations and which may be located in the same municipality as the retail facility of the
35 marijuana store or another municipality subject to the approval of the other municipality.
36 Delivery services are subject to the same testing, tracking, labelling and packaging
37 requirements as retail sales of adult use marijuana and marijuana products, delivery
38 service drivers are subject to the same requirements as the employees of a marijuana
39 store, delivery recipients are subject to the same customer restrictions regarding age and
40 state of intoxication as marijuana store customers and delivery service vehicles are

1 subject to the same inspection requirements as the marijuana store's licensed premises and
2 may not have an occupant under 21 years of age during the course of a delivery.