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Department of Public Safety
Bureau of Highway Safety
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Michael J. Sauschuck
Commissioner

Lauren V. Stewart
Director

Testimony of Director Lauren V. Stewart

IN OPPOSITION TO LD 40

An Act to Protect Liberty and Advance Justice in the Implementation, Administration and Enforcement of the Cannabis Legalization Act and To Implement Certain Recommendations of the Subcommittee on Non-substantive Changes to the Maine Medical Use of Cannabis Act

Senator Hickman, Representative Supica, and Members of the Joint Standing Committee on Veterans and Legal Affairs. My name is Lauren Stewart, and I am the Director of the Maine Bureau of Highway Safety. I am writing to submit testimony on behalf of the Department of Public Safety and the Bureau of Highway Safety, in Opposition to LD 40. LD 40 amends the Maine Medical Use of Cannabis Act and the Cannabis Legalization Act in ways that are detrimental to public safety by encouraging and allowing minors to possess, use, and transport cannabis. It also hinders the ability of law enforcement to effectively address cannabis related public safety concerns. I will address each of those broad topics in turn.

Provisions Related to Minors:

The first concerning change LD 40 makes is to remove “Adult-Use” from the title “Adult Use Cannabis.” This change is echoed throughout the entire bill. In short, this bill allows those under 21 years of age to consume cannabis, be employed in the cannabis industry, to enter previously restricted areas in cannabis manufacturing where hazardous chemicals are used, and to transport cannabis while working as an employee of a cannabis company.

Meanwhile, LD 40 removes the penalty provisions that apply to adult-use stores when they sell or deliver cannabis to individuals under 21 years of age. It also reduces the penalties that apply to these minors who illegally purchase, use, possess, or transport cannabis by removing the application of existing laws (such as Title 22 §2389, “Illegal Transportation of Drugs by Minor”) and replacing them with new violations with lesser penalties. For example, LD 40 decriminalizes the class D crime of Forgery (Title 17-A §703) for minors who make, possess, sell, or give a false identification card to another minor into only a civil infraction with a fine of not less than \$100 (§1901(1)(E)) as a penalty.

To exacerbate these issues, LD 40 removes the ability of the Office of Cannabis Policy (OCP) to adopt rules limiting adult-use cannabis advertising’s appeal “to persons under 21 years of age.”

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All these provisions have the natural consequence of, if not intent to, induce minors to use cannabis. We once had similar allowances for alcohol and tobacco, and those allowances created both public health and public safety issues that lasted generations: from cancer to underage drinking parties. It would be a mistake to allow the creation of another such crisis.

At the same time, the requirements that the cannabis industry be trained not to serve those under 21 by obtaining proper identification and using due diligence to determine someone's age, are eliminated. LD 40 eliminates most, if not all, of the consequences to cannabis industry businesses for selling to those who are underage. Thus, not only does LD 40 put minors at risk by allowing their involvement, and use of, cannabis, it also encourages the cannabis industry to invite minors to be involved with, and use, cannabis.

Other Public Safety Hinderances:

LD40 is anti-law enforcement. In multiple places it prevents law enforcement from entering the premises of medical cannabis users, medical cannabis caregivers, caregiver stores, and dispensaries. Taking this even further, the bill prevents officers from entering any adult-use licensed facilities, such as cannabis retail stores. These provisions prevent law enforcement from entering places to which the public has general access. Such provisions are unreasonable and unnecessary. Constitutional provisions at both the state and federal levels prevent law enforcement from making unreasonable entry into private places.

Next, LD40 eliminates OCP's ability to share information with law enforcement when law enforcement has a legitimate need. Instead – to figure out if a grow or location is legal – law enforcement must seek a search warrant to get the very same information. This provision will effectively stop enforcement against illegal grows thus hurting Maine's regulated industry while encouraging black market activity. To obtain a search warrant, law enforcement officers must have probable cause that an activity is illegal; when it comes to cannabis grows, this necessarily means checking with OCP to ensure that the grow is not authorized by adult-use or medical use statutes. By eliminating this ability, law enforcement is hindered in the development of probable cause of illegal activity. This provision is unreasonable and comes at a time when the U.S. Border Patrol has identified numerous illegal grows and Maine's congressional delegation have called for enforcement against such illegal grows.

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LD40 changes the degree of intoxication that would prevent someone from being served cannabis from “visibly,”¹ which matches the standard with alcohol sales, to “substantial,” which exceeds the standard with alcohol. By so doing, it allows cannabis sellers to sell to people who are already legally intoxicated. In other words, it allows a State licensed business to sell an intoxicating product to a person who is legally intoxicated (and likely drove to the business and is driving away after purchase). Furthermore, LD 40 also allows any cannabis industry employee to consume cannabis on work premises during employment without regard for subsequent safe transportation following consumption and end of shift/employment. Both provisions are a public hazard. It is well established in the scientific and legal communities that allowing the operation of a motor vehicle with *any* amount impairment is both dangerous to public safety and illegal². Currently, the DHHS Health and Environmental Lab tells us that in 2023, 26% of the people who died in a motor vehicle crash had THC in their blood. The changes enacted by LD 40 will lead to even more OUIs, more crashes, and more traffic deaths.³

Lastly, adding even more danger to the public, posed by cannabis and driving and black-market cannabis, LD 40 removes the requirement that money received by the state from cannabis sales be used for law enforcement training that supports the regulated market and traffic safety by training officers in the specialized abilities needed to investigate these complex situations competently. This provision has allowed the teaching and instructing of law enforcement in cannabis regulations and will soon fund cannabis impaired driving specific classes. Eliminating this provision would remove any training option that Maine law enforcement currently has on these topics.

For all these reasons and more, we respectfully ask you to vote Ought Not to Pass on LD 40.

¹ 28-A M.R.S. 2503(7) Visibly Intoxicated. Visibly intoxicated" means a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual which clearly demonstrates a state of intoxication.

² *State v. Atkins*, 2015 ME 162 ¶ 1 A person is under the influence if the person’s physical or mental faculties are impaired however slightly or to any extent by the substance or substances the person has consumed. A person may consume a substance by eating, drinking, inhaling or injecting it.

³ See, e.g., Tom Krisher, *US Study: Over Half Of Car Crash Victims Had Drugs in System*, AP NEWS (December 13, 2022) (available at: <https://apnews.com/article/health-business-marijuana-government-and-politics-0e8f4f8a2d7ae7c53e784e8eaa0f9daa>) (discussing a study that found that more than half of people killed or injured in traffic crashes had drugs or alcohol in their system and that THC was the most common of those drugs).

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