



JANET T. MILLS
GOVERNOR

STATE OF MAINE
OFFICE OF CANNABIS POLICY
162 STATE HOUSE STATION
19 UNION STREET
FIRST FLOOR
AUGUSTA, MAINE 04333-0162

ADMINISTRATIVE & FINANCIAL SERVICES

KIRSTEN LC FIGUEROA
COMMISSIONER

OFFICE OF CANNABIS POLICY

JOHN HUDAK
DIRECTOR

January 30, 2023

Re: LD 48 – *An Act to Clarify Provisions of the Cannabis Legalization Act Regarding Labels, Packaging and Testing*

Senator Hickman, Representative Supica, Members of the Joint Standing Committee on Veterans and Legal Affairs:

I am John Hudak, Director of the Office of Cannabis Policy (OCP) and I am before you today to provide testimony on behalf of our office in support of our department bill, LD 48.

This bill will simplify compliance for adult use cannabis licensees by establishing clearer standards for cannabis and cannabis product labeling. The bill further addresses existing statutory barriers to common sense testing requirements. As we enter the third year of sales in Maine's adult use program, OCP has begun to evaluate the lessons we have learned through the implementation process in order to improve the statutory and regulatory frameworks that support this maturing industry.

At the end of the day, we, as regulators, want to administer laws and rules that:

- Keep adult use cannabis out of the hands of individuals under 21 years of age;
- Give consumers the information they need to make decisions about whether, and how, to use adult use cannabis;
- Safeguard the State's ability to limit acute cannabis-related public health problems; and
- Are easy to understand, abide by, and administer.

For these reasons, OCP has proposed that the existing prohibition on depictions of humans, animals, or fruits on cannabis and cannabis product labels be replaced with a prohibition on the use of "cartoons" on labels. This change is necessary because the existing prohibition on depictions of humans, animals, and fruits poses several challenges for licensees and OCP staff alike. The current prohibition was intended to avoid minors' accidental or intentional consumption of cannabis products because of the appeal of labeling.

The existing prohibition may include some imagery that could appeal to young people, and it is confusing for both licensees to comply with and OCP to administer. This ambiguity leads to regular questions regarding whether a shadow, outline, pawprint, hat, etc. "depicts" a prohibited item. Licensees frequently seek labeling guidance from our office regarding these provisions, and it has become clear the standard is too subjective to be effective.

The change included in this bill would swap the overly broad "human, animal, or fruit" prohibition for a more narrowly tailored prohibition on the use of "cartoons" on cannabis products labels. This standard is clearer and better addresses problematic labels that use stylized

imagery more likely to appeal to individuals under 21 years of age. When paired with the existing statutory restriction on packaging and labeling that is “specifically designed to appeal particularly to a person under 21 years of age,” and the requirement that packaging be child-resistant and tamper evident, we are confident that this change will further limit cannabis products from being marketed to children.

The remainder of this bill focuses on streamlining the mandatory testing requirements in the adult use program. To do that, we have proposed specific testing requirements for the different kinds, or “matrices”, of adult use cannabis and cannabis products. These updated requirements will reduce redundant testing while ensuring that all cannabis sold to consumers is tested for all contaminants and factors required by law. As a quality check on these restructured testing requirements, we have included enhanced audit provisions so that OCP can ensure that cannabis and cannabis products sold to consumers are fully tested and contaminants are not introduced after testing is complete.

Next, this bill does a bit of housekeeping by updating the notice requirements for cannabis testing facilities that report failed test results to licensees and OCP. At present, the law requires testing facilities to not only notify licensees of failed mandatory test results, but to take action to sequester failed products and ensure their destruction. Testing facilities are not regulators and thus should not be tasked with ordering the destruction of batches that fail mandatory testing.

Finally, this bill strikes a confusing and contradictory provision that was included in legislation from last session. That provision gave cannabis product manufacturers some wiggle room when manufacturing maximum potency edible cannabis products. That law allowed product manufacturers a 10% “variance” in excess of the statutorily defined potency limits of 10 milligrams of THC/serving and 100 milligrams of THC/package. However, it also indicated that such variance could not be less than 0.6 milligrams or more than 5 milligrams, creating conflicting variance standards that OCP could not resolve through the rulemaking process. The solution presented in this bill preserves the legislature’s original intent while resolving the contradiction in statute.

We thank the committee for its careful consideration of this bill, and we are happy to answer any questions you may have.