



AMERICAN CIVIL LIBERTIES UNION

Maine

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TESTIMONY OF MICHAEL KEBEDE, ESQ.

Ought to Pass As Amended - LD 1311

**An Act to Provide That the Legal Use or Possession of Cannabis
Is Not a Violation of Probation, Parole or Pretrial Release**

JOINT STANDING COMMITTEE ON
CRIMINAL JUSTICE & PUBLIC SAFETY

April 10, 2023

Senator Beebe-Center, Representative Salisbury, and distinguished members of the Joint Standing Committee on Criminal Justice & Public Safety, greetings. My name is Michael Kebede, and I am the Policy Counsel at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, we urge you to support this bill.

Under our bail code, judicial officers can and do order people who are released on bail to refrain from using, possessing, or cultivating cannabis, and to submit to search for cannabis while they are out on bail. *See* 15 MRS §1026(3)(9), (9-A). Maine is one of only seven states where a violation of a bail condition other than a failure to appear in court is in and of itself a new crime.¹ In other states, if a person violates a bail condition and the district attorney feels the violation was egregious, they can file a motion to revoke bail and address the violation, without adding an additional criminal charge to a person's record. Here, we not only make violations a new crime in and of itself, but some violations are felony crimes. This makes us an extreme outlier compared to other states. This bill would improve our bail system by prohibiting the imposition of a restriction on cannabis possession, use, and cultivation as a permissible bail condition unless there is a finding that cannabis creates a risk of danger to the individual or another person. Indeed, in 2016, the people of Maine decided to join the growing number of

¹ *See* National Conference of State Legislatures, *Pretrial Release Violations & Bail Forfeiture Criminal Offenses*, available at <https://www.ncsl.org/research/civil-and-criminal-justice/bail-forfeiture-procedures.aspx>.

states where cannabis is legal.² By merely acknowledging and systematizing what was already going on all over the state,³ we have allowed Mainers to generate employment,⁴ tourist revenue,⁵ and economic benefit.⁶ Yet because it remains illegal under federal law, and because violating conditions of release are a crime in Maine, cannabis use and possession remains criminalized for those accused of a crime. This bill is a welcome effort to continue severing the state's criminal legal system from its legal, regulated approach to cannabis. We urge you to vote *ought to pass*.

² See An Act to Legalize Marijuana, I.B. 6 - L.D. 1701 (eff. Jan. 30, 2017) (codified as amended at 28-B M.R.S.A. § 101 *et seq.*).

³ See *National Estimates of Marijuana Use and Related Indicators – National Survey on Drug Use and Health, United States, 2002–2014*, CTR. FOR DISEASE CONTROL AND PREVENTION, (Sept. 2, 2016) at Figure 5 (noting that about 9% of people in the northeast used marijuana during the studied period). Available at, <https://www.cdc.gov/mmwr/volumes/65/ss/ss6511a1.htm#T3down>.

⁴ *Maine Has 400 Legal Cannabis Industry Jobs, Study Finds*, CTR. SQUARE (Jun. 1, 2020), https://www.thecentersquare.com/maine/maine-has-400-legal-cannabis-industry-jobs-study-finds/article_690ecd7c-9aa8-11ea-8b47-0f7bd38668f8.html.

⁵ Sam Wood, *Maine's Tourist Attractions Include Lobster, Quaint Towns, Blueberries and Now, for Some, Weed*, PHILADELPHIA INQUIRER, <https://www.inquirer.com/business/weed/marijuana-maine-new-jersey-reciprocity-medical-card-20190716.html>.

⁶ See Patrick Whittle, *Maine Marijuana Shops Report Brisk Business Despite Pandemic*, ABC NEWS (Jan. 9, 2021), <https://abcnews.go.com/US/wireStory/maine-marijuana-shops-report-brisk-business-pandemic-75149065>.