

*131st Legislature*  
**Senate of Maine**  
*Senate District 28*

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*Transportation Committee, Chair*  
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**Testimony of Senator Ben Chipman to introduce**  
***LD 1384, "An Act to Promote Fairness in the Taxation of Adult Use Cannabis by Basing the***  
***Excise Tax on the Tier of a Cultivation Facility"***  
**Before the Joint Standing Committee on Taxation**  
**April 26, 2023**

Senator Grohoski, Representative Perry, and Distinguished Members of the Joint Standing Committee on Taxation, my name is Ben Chipman, and I represent Senate District 28, which includes part of Portland. I am here to introduce LD 1384, "An Act to Promote Fairness in the Taxation of Adult Use Cannabis by Basing the Excise Tax on the Tier of a Cultivation Facility."

This legislation would change the calculation of the excise tax on adult use cannabis to graduated rates based on the tier of a cultivation facility to begin on July 1, 2024. This graduated system would ensure a more fair way of taxing cannabis businesses.

One of the goals of legalizing cannabis is to eliminate the illicit market. Elimination of the illicit market lowers underage use, ensures the safety of the product, and increases revenues for the state. A high or arbitrary excise tax pyramids taxation of cannabis businesses, greatly increasing costs for producers, and resulting in the perpetuation of the illicit and grey markets.

Maine's current excise tax is too high. Those costs particularly disadvantage small producers by increasing the price of entry into the market. A cannabis cultivator is required to outlay \$335 per pound of flower, regardless of the wholesale price. That cost has to be absorbed before the product is even sold at retail.

Most importantly, a high, fixed cost excise tax, pushes product into the grey or illicit market. According to CNBC, the hefty price tag for legal cannabis in New York causes legal adult use of cannabis to be that much more expensive than the illicit market, and leaves customers with "sticker shock." In California for example, where high taxes and competition from unlicensed businesses are still a problem for its legal industry six years out from its launch. California is getting decimated by their illicit market that's thriving because legal products are more expensive, more regulated, and have more taxes.

Illegal sales are bad for kids. They do not require checking ID's. Whereas a robust legal market has actually reduced youth use. According to a study by the National Institute of Health, "Using the Washington Health Youth Survey we estimate that after recreational cannabis legalization

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past 30-day cannabis use prevalence in grade 8 decreased by 22.0%, in grade 10 prevalence decreased by 12.7%, and no effect in grade 12.”

An illegal market is bad for the safety of consumers. It doesn't require testing for pesticides and heavy metals. In November 2022, a study commissioned by the New York Medical Cannabis Industry Association found that after reviewing cannabis products from 20 illicit stores in New York City, about 40% contained harmful contaminants such as E.coli, lead and salmonella. Illicit sales often include the sale of other unregulated drugs, with no barrier to the market.

To be clear, Maine's legalization of cannabis has been an extraordinary success. Already sales of adult use and medical cannabis exceed the value of our famous blueberry harvest. It also exceed the even more iconic lobster harvest from this past year.

We have a moment in time to right size the taxation of cannabis and eliminate the illicit market. If we capture the growth of the new revenue, we can right size the level of taxation. Overtime pushing consumers to the legal market will strengthen and stabilize state revenues, in addition to protecting consumers of all ages.

My proposal would not eliminate the excise tax, but rather take a more incremental, affordable approach by incorporating tiers to the levels of the excise tax. This tax system will protect small cannabis businesses, while providing a higher graduated rate for large, corporate cannabis entrepreneurs.

Even better than the proposal before you today would be the elimination of all excise tax for all cannabis businesses. The sales tax is the best place to capture the value added from our cannabis manufacturers. That would also export some of the cost of taxes to Maine's huge tourism market.

That said, I am hoping that this incremental approach will have a lower price tag and will be palatable to the committee. If you all would like to go further, I'd welcome that discussion as well.

Thank you for your consideration. I would be happy to answer questions.