

Testimony in Support of:

LD 1942

An Act to Modify Taxes Applying to Adult Use Cannabis, Hemp and Hemp Products

Before the Joint Standing Committee on Taxation

May 16, 2025

Senator Grohoski, Representative Cloutier and members of the Joint Standing Committee on Taxation:

My name is Mark Gallagher. I am a Senior Consultant and Shareholder at Drummond Woodsum Strategic Consulting in Portland and I am here on behalf of the Cannabis Association of Maine (CannabisME) to speak in support of LD 1942, “An Act to Modify Taxes Applying to Adult Use Cannabis, Hemp and Hemp Products”, which would change the excise tax to 10% of the average wholesale price.

This bill represents a thoughtful and necessary evolution in Maine’s cannabis taxation framework. The legislation provides meaningful tax relief adult use cannabis industry—specifically, cultivators—which employs thousands of Mainers across the state and generates tens of millions of dollars of sales tax and income tax revenue for the state. This change will be particularly impactful for small cultivators.

The current tax structure for adult use cannabis is a 10% sales tax and a flat rate excise tax of \$335 per pound of flower and \$94 per pound of trim. Excise tax is paid by the cultivator on the 15th of the month following the month the product leaves the cultivation facility. What this means is if a cultivator transfers flower to a manufacturing facility on March 31, they pay excise tax on the flower on April 15, whether they have been paid for the product or not. Excise tax is due any time that cannabis leaves a cultivation facility, so if it is transferred to multiple cultivation facilities, the excise tax is paid multiple times.

This structure has proven to have several unintended consequences that are harming small businesses. First, because the excise tax is a flat fee on a commodity with a fluctuating price, the effective tax is higher than what the legislature intended. Second, because excise tax is due monthly, payment often becomes due well before the cultivator is paid for the cannabis. Third, the tax structure, not the law is preventing the transfer of cannabis between cultivation facilities. This creates inefficiencies in the market, unnecessarily requiring all cultivators to have post processing capabilities rather than allowing companies with multiple cultivation facilities to consolidate post processing activities at one facility or small cultivators to transfer cannabis to larger facilities for post processing.

The stated intent of the Marijuana Legalization Implementation Committee was for a 10% excise tax. However, the mechanism for calculating the excise tax—a flat fee on a product with a fluctuating price point—has resulted in a significantly higher tax rate. As prices continue

to drop, that rate is only likely to go up. In Colorado, for example, the price per pound of cannabis went from \$1,721 in 2021, to \$948 in 2022, and is now around \$650. If Colorado had a flat fee excise tax, that tax would, year after year, become a proportionately higher percentage of the wholesale price. At \$900 a pound, a \$335 a pound excise tax, with the other costs associated with cultivating a pound of cannabis in a legal market, means that cultivators are selling the product at a loss. Because the larger the cultivation the lower the cost of production, this will disproportionately harm small operators.

As of today, twenty-four states have legalized cannabis for adult use. Only five states have a weight-based excise tax, like Maine. However, Maine and Alaska are the only states to calculate that tax as a flat fee on just two product types, with the weight-based tax being the sole tax on cannabis in Alaska. This is because this model fails to take into consideration price fluctuations and price differentials between products. The best models come from Nevada and Colorado, which calculate weight-based excise tax as a percentage of the fair market value as determined by the regulators on a biannual or quarterly basis on a variety of different product types. L.D. 1942 is based on the Colorado and Nevada model and is just good policy.

We want to thank Representative Sayre for sponsoring this bill and urge you to vote OTP on L.D. 1942.