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Testimony of State Representative Dan Sayre presenting
**LD 1942, An Act to Modify Taxes Applying to Adult Use Cannabis, Hemp and
Hemp Products**

Before the Joint Standing Committee on Taxation

Senator Grohoski, Representative Cloutier, friends and colleagues on the Joint Standing Committee on Taxation. I am Dan Sayre, representing House District 135, the greater part of the great town of Kennebunk. I am presenting for your consideration **LD 1942, An Act to Modify Taxes Applying to Adult Use Cannabis, Hemp and Hemp Products**. The goal of this legislation is to better align the tax structure with the realities of the current adult use cannabis market.

When Maine established the cannabis excise tax at \$335 per pound, this was intended to represent approximately 10% of the average wholesale price (AWP) of cannabis. However, the market has evolved. Today, the actual AWP of cannabis in the adult use market has dropped to between \$1,100 and \$1,500 per pound. This means the effective excise tax rate is now between 22% and 30% — far higher than the original legislative intent. When combined with a 10% sales tax, the cumulative impact is almost 40% to the retail consumer.

This disproportionate taxation is harming Maine's cannabis entrepreneurs and threatening the viability of licensed businesses. Unlike tobacco, cannabis operates within a unique market that includes a still-thriving illicit sector. Excessive taxation creates a significant price differential between legal and illicit products, making it harder for licensed operators to compete and inadvertently encouraging consumers to purchase outside the regulated market.

This bill proposes the following reforms to correct this imbalance:

1. **Adjust the excise tax to 10% of actual average wholesale price (AWP)**, to be determined annually based on market data. This restores the original intent of the tax and adjusts for market realities.
2. **Eliminate double taxation** of cannabis when it is transferred between cultivation licensees or from a cultivation licensee to a manufacturing licensee and back to a cultivation licensee. No Cannabis flower, PreRolls, or trim should be subject to excise tax more than once.

3. **Assess the excise tax 120 days after the product is transferred for retail sale.** This deferral allows businesses to realize revenue before being taxed and ensures tax liability is aligned with actual cash flow.

To offset the estimated \$6 million in revenue impact from these reforms, the bill proposes the following measures:

1. Impose a 20% sales tax on hemp-derived THC products at retail or when sold to on-premise consumption establishments. This rate of taxation would create parity with the 10% excise tax and 10% sales tax paid on cannabis and would generate approximately \$4.8 million in new revenue.
2. Reduce the current 12% allocation of Adult Use Cannabis Tax revenue to the Public Health and Safety and Municipal Opt-in (PHSMO) Fund to 6%, generating an additional \$3.2 million to the general fund.
3. Transfer any excess cannabis tax revenue to the General Fund. This ensures taxpayer dollars are used efficiently and supports broader state priorities.
4. On the assumption that the three items above will not ensure that this bill is revenue neutral, I have also proposed increasing the sales tax on adult use cannabis to 12.5%.

Maine's adult use cannabis industry is still young and developing. A sustainable, fair tax policy is critical not only to ensure ongoing revenue to the state, but also to support the growth of small businesses, discourage illicit activity, and protect consumers by keeping them within the regulated system.

I thank you for your consideration and will endeavor to answer any questions you may have.

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

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §1811, sub-§1, ¶D, as amended by PL 2023, c. 643, Pt. H, §23 and affected by §29 and amended by c. 673, §22 and affected by §28, is further amended to read:

D. For sales occurring on or after October 1, 2019 and before January 1, 2026, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43 and liquor sold for on-premises consumption by a licensed brewery, small brewery, winery, small winery, distillery or small distillery pursuant to Title 28-A, section 1355-A, subsection 2, paragraph B;
- (3) Nine percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp;
- (4) Ten percent on the value of rental for a period of less than one year of:
 - (a) An automobile; or
 - (c) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty; and
- (5) Ten percent on the value of adult use cannabis, adult use cannabis products and, if sold by a person to an individual who is not a qualifying patient, cannabis and cannabis products beginning on the first day of the calendar month in which adult use cannabis and adult use cannabis products may be sold in the State by a cannabis establishment licensed to conduct retail sales pursuant to Title 28-B, chapter 1.

Sec. 2. 36 MRSA §1811, sub-§1, ¶E is enacted to read:

E. For sales occurring on or after January 1, 2026, the rate of tax is 5.5% on the value of all tangible personal property and taxable services, except the rate of tax is:

- (1) Eight percent on the value of prepared food;
- (2) Eight percent on the value of liquor sold in licensed establishments, as defined in Title 28-A, section 2, subsection 15, in accordance with Title 28-A, chapter 43, and liquor sold for on-premises consumption by a licensed brewery, small brewery, winery, small winery, distillery or small distillery pursuant to Title 28-A, section 1355-A, subsection 2, paragraph B;
- (3) Nine percent on the value of rental of living quarters in any hotel, rooming house or tourist or trailer camp;
- (4) Ten percent on the value of rental for a period of less than one year of:
 - (a) An automobile; or
 - (b) A loaner vehicle that is provided other than to a motor vehicle dealer's service customers pursuant to a manufacturer's or dealer's warranty;
- (5) Twelve and one half percent on the value of adult use cannabis, adult use cannabis products and, if sold by a person to an individual who is not a qualifying patient, cannabis and cannabis

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products sold by a cannabis establishment licensed to conduct retail sales pursuant to Title 28-B, chapter 1; and

(6) Twenty percent on the value of hemp, as defined in Title 7, section 2231, subsection 1-A, paragraph D, and hemp products that contain tetrahydrocannabinol.

Sec. 3. 36 MRSA §1818, as amended by PL 2021, c. 645, §5 and c. 669, §5, is further amended to read:

§1818. Tax on adult use cannabis and adult use cannabis products

All sales tax revenue collected pursuant to section 1811 on the sale of adult use cannabis and adult use cannabis products must be deposited into the General Fund, except that, before January 1, 2026, on or before the last day of each month, the State Controller shall transfer ~~42 6%~~ of the sales tax revenue received by the assessor during the preceding month pursuant to section 1811 to the Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund established under Title 28-B, section 1101. Beginning January 1, 2026, all sales tax revenue collected pursuant to section 1811 on the sale of adult use cannabis and adult use cannabis products must be deposited into the General Fund, except that, on or before the last day of each month, the State Controller shall transfer 6% of the sales tax revenue received by the assessor during the preceding month pursuant to section 1811 to the Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund established under Title 28-B, section 1101. RATHER THAN TRANSFER 6% OF THE OSR TO THE GENERAL FUND IT MIGHT BE EASIER TO JUST LOWER THE OSR TO 6% AND USE THAT TO COVER THE COST OF THE EXCISE TAX CUT.

Sec. 4. 36 MRSA §4921, sub-§1-A is enacted to read:

1-A. Average wholesale price. "Average wholesale price" means the median wholesale price per pound or fraction thereof of cannabis flower or cannabis trim that is sold or transferred from cultivation facility licensees to other licensees in the State, as determined by the department on an annual basis by routine technical rulemaking as described by Title 5, chapter 375, subchapter 2-A.

Sec. 5. 36 MRSA §4921, sub-§9-A is enacted to read:

9-A. Products manufacturing facility. "Products manufacturing facility" has the same meaning as in Title 28-B, section 102-A, subsection 51.

Sec. 6. 36 MRSA §4923, as amended by PL 2023, c. 679, Pt. C, §13, is repealed.

Sec. 7. 36 MRSA §4923-A, as enacted by PL 2021, c. 323, §5 and amended by c. 669, §5, is repealed.

Sec. 8. 36 MRSA §4923-B is enacted to read:

§4923-B. Excise tax imposed; beginning January 1, 2026

1. Excise tax on average wholesale price. Beginning January 1, 2026, a cultivation facility licensee shall pay an excise tax at the rate of 10% of the average wholesale price of adult use cannabis, including cannabis flower, cannabis trim, immature cannabis plants and seedlings, mature cannabis plants and cannabis seeds, sold to other licensees in this State; and all wet flower and trim used for extraction and manufactured into concentrate transferred to a manufacturing license shall be taxed as wet trim.

2. Sales and transfers between cultivation facilities and products manufacturing facilities. An excise tax is not imposed under this section on a sale by a cultivation facility or products manufacturing facility of adult use cannabis to another cultivation facility or products manufacturing facility or on a transfer by a cultivation facility or products manufacturing facility of adult use cannabis to another cultivation facility or products

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manufacturing facility. For the sake of clarity, excise tax shall not be paid more than once on any cannabis flower, trim, plants, or seeds.

Sec. 9. 36 MRSA §4924, as enacted by PL 2019, c. 231, Pt. B, §7, is amended to read:

§4924. Returns; payment of excise tax

~~On~~ Beginning January 1, 2026, on or before the 15th day of each month following the end of each quarter, a cultivation facility licensee shall file a return, as required by the assessor, and pay to the assessor all excise taxes due under this chapter for the preceding calendar ~~month~~ quarter.

Sec. 10. 36 MRSA §4925, as amended by PL 2021, c. 645, §6 and c. 669, §5, is further amended to read:

§4925. Application of excise tax revenue

All excise tax revenue collected by the assessor pursuant to this chapter on the sale of adult use cannabis must be deposited into the General Fund, except that, before January 1, 2026, on or before the last day of each month, the assessor shall transfer 12% of the excise tax revenue received during the preceding month pursuant to this chapter to the Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund established in Title 28-B, section 1101. Beginning January 1, 2026, all excise tax revenue collected by the assessor pursuant to this chapter on the sale of adult use cannabis must be deposited into the General Fund, except that, on or before the last day of every 3rd month, the assessor shall transfer 6% of the excise tax revenue received during the preceding quarter pursuant to this chapter to the Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund established in Title 28-B, section 1101.

Sec. 11. Effective date. This Act takes effect January 1, 2026.

SUMMARY

Beginning January 1, 2026, this bill imposes a sales tax of 20% on hemp and hemp products that contain tetrahydrocannabinol, or THC. It changes the percentage from 12% to 6% of the adult use cannabis sales tax and excise tax that is transferred to the Adult Use Cannabis Public Health and Safety and Municipal Opt-in Fund. It changes the method of taxation of adult use cannabis products to 10% of the average wholesale price of adult use cannabis sold by a cultivation facility licensee to other licensees. It provides that an excise tax is not imposed on the sale or transfer of adult use cannabis between cultivation facilities and products manufacturing facilities. It changes payment of the adult use cannabis excise tax to a quarterly schedule.