

**§2430-E. Possession penalties; fraud penalty**

**1. Excess marijuana; forfeiture.** A person who possesses marijuana plants or harvested marijuana in excess of the limits provided in this section shall forfeit the excess amounts to a law enforcement officer. The law enforcement officer is authorized to remove all excess marijuana plants or harvested marijuana possessed by that person in order to catalog the amount of excess marijuana. Possession of marijuana in excess of the limits provided in this section is a violation as follows:

A. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount up to 1 1/4 ounces commits a civil violation for which a fine of not less than \$350 and not more than \$600 must be adjudged, none of which may be suspended; [PL 2017, c. 452, §24 (NEW).]

B. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount over 1 1/4 ounces and up to 2 1/2 ounces commits a civil violation for which a fine of not less than \$700 and not more than \$1,000 must be adjudged, none of which may be suspended; and [PL 2017, c. 452, §24 (NEW).]

C. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount over 2 1/2 ounces is a violation of Title 17-A, chapter 45. [PL 2017, c. 452, §24 (NEW).]  
[PL 2017, c. 452, §24 (NEW).]

**2. Repeat forfeiture.** If a cardholder has previously forfeited excess marijuana pursuant to subsection 1 and a subsequent forfeiture occurs, the department shall revoke the registry identification card of the cardholder and the entire amount of marijuana plants or harvested marijuana possessed by that cardholder must be forfeited to a law enforcement officer. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 387, §12 (AMD).]

**3. Defense for possession of excess marijuana.** Except as provided in section 2426, a qualifying patient may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana possession and may present evidence in court that the patient's necessary medical use or cultivation circumstances warranted exceeding the amount of marijuana allowed under section 2423-A and was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the patient's medical diagnosis or symptoms associated with the patient's medical diagnosis that, in a medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana.

[PL 2017, c. 452, §24 (NEW).]

**4. Calculation of marijuana weight.** The amount of marijuana possessed under this chapter must be calculated by the weight of dried harvested marijuana. A calculation of the weight of marijuana that is not dried must reduce the weight by at least 75% to account for moisture content. A calculation of the weight of marijuana in a marijuana product may not include ingredients in the product other than marijuana, except that the weight of marijuana concentrate must be included whether the marijuana concentrate is possessed by itself or within a marijuana product.

[PL 2017, c. 452, §24 (NEW).]

**5. Penalty for fraud.** Fraudulent misrepresentation regarding lawful possession or medical use of marijuana and fraudulent procurement under this chapter are governed by this subsection. A person who misrepresents to a law enforcement official any fact or circumstance relating to the possession or

medical use of marijuana under this chapter to avoid arrest or prosecution commits a civil violation for which a fine of \$200 must be adjudged.

[PL 2017, c. 452, §24 (NEW).]

#### SECTION HISTORY

PL 2017, c. 452, §24 (NEW). PL 2021, c. 387, §12 (AMD).

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