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TESTIMONY BEFORE THE JOINT COMMITTEE ON AGRICULTURE,  
CONSERVATION AND FORESTRY

IN SUPPORT OF LD 33

*An Act To Improve the Laws Governing Hemp by Bringing Them into Compliance with  
Federal Law*

February 11, 2021

Senator Dill, Representative O'Neil, and honorable members of the Joint Standing Committee on Agriculture, Conservation and Forestry, my name is Gary Fish, and I am the Maine State Horticulturist, speaking on behalf of the department in support of LD 33, "An Act to Improve the Laws Governing Hemp by Bringing Them into Compliance with Federal Law." We thank Senator Black for sponsoring this bill.

The Department has been licensing hemp growers since 2016 under the 2014 federal Farm Bill authorization. In December of 2018, the federal Agriculture Improvement Act included a provision making hemp production legal in all 50 states. The Act directed the USDA to develop rules to provide consistency in hemp regulation throughout the country. Shortly thereafter, the USDA's Agricultural Marketing Service (AMS) published an Interim Final Rule (IFR) 7 CFR, Part 990. Subsequently, USDA-AMS published the Final Rule on January 15, 2021, which becomes effective on March 22, 2021. As part of the Final Rule, USDA-AMS requires approved plans from states that want to license hemp growers.

USDA-AMS approved Maine's State Plan based on the IFR on September 2, 2020 and fortunately, the Final Rule does not make changes that require any amendments to this bill. However, to implement the approved State Plan, the legislature must enact Maine statutory changes to conform with the federal rules. Once the statutory changes are in place, the Department will amend the current licensing rules in CMR 01-001 Chapter 274 to fully implement the approved State Plan for the 2022 growing season.

The following changes are proposed to come into federal compliance:

- Federal rules require a ten-year prohibition on licensing if an applicant has been convicted of a felony related to a controlled substance. Adding applicants for licenses to grow, process or transport hemp to 5 MRSA § 5303 (2) will allow the federally mandated ten-year prohibition on licensing.
- For 7 MRSA § 2231:

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- Subsection 1-A: add the definition of “key participants.” USDA rules require us to identify all the key participants in a hemp production operation since license eligibility restrictions are applied to all key participants.
- Subsection 2: delete the exemption for planting three hemp plants for personal use. The USDA rules do not allow for any exemptions from licensing.
- Subsection 2(B): remove the prohibition on asking applicants to provide seed or clone information with their license application. These documents (certificates of analysis or seed certification) are more easily obtained now than they were even a year ago.
- Subsection 6: enacts rulemaking language to specifically address the need to conform with the federal rules and to establish a process for criminal background checks of licensees and all key participants.
- Subsection 6-A: repealed because it was only for the establishment of a preliminary indoor licensing program. That program has now been in place for two seasons.
- Subsection 9: repealed because the federal rules require states to report the locations of all hemp growing sites.

In summary, all these changes are necessary to bring the state law into compliance with the Agricultural Improvement Act of 2018 and the USDA Final Rules 7 CFR, Part 990.

Thank you for your time, and I am available to answer questions now as well as at the work session.