

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: 5-3-21

To: Veterans & Legal Affairs Committee

From: Sam Praver, Legislative Analyst

LD 1029, An Act To Amend the Marijuana Legalization Act and the Laws Governing the Taxation of Marijuana

<b>Summary</b>	<p>This bill makes the following changes to the Marijuana Legalization Act and the laws governing the taxation of marijuana.</p> <ol style="list-style-type: none"> <li>1. It permits an adult use cultivation facility licensee to accept from registered caregivers and registered dispensaries unlimited transfers of marijuana plants, marijuana seeds, marijuana flower and marijuana trim until 2 years after the date the Department of Administrative and Financial Services issues the first active cultivation facility license or a later date set in rule by the department.</li> <li>2. It permits registered caregivers and registered dispensaries to transfer an unlimited number of marijuana plants and marijuana seeds and an unlimited amount of marijuana flower and marijuana trim to an adult use cultivation facility licensee until October 1, 2021 or a later date set in rule by the department. If the department does not extend by rule the date by which a registered caregiver or registered dispensary may make unlimited authorized transfers to adult use cultivation facility licensees, a registered caregiver or registered dispensary that has already made an authorized transfer may make one more authorized transfer and a registered caregiver or registered dispensary that has not made an authorized transfer may make one authorized transfer to an adult use cultivation facility licensee.</li> <li>3. It requires cultivation facility licensees to remit excise taxes on transfers of marijuana flower and marijuana trim received from a registered caregiver or registered dispensary.</li> </ol> <p>This bill is an emergency, effective immediately upon enactment and requiring a 2/3 vote of the legislature to pass.</p>
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LD 1029	Current Law
<p><b>PART A</b></p> <p><b>Sec. A-1. 28-B MRSA §501, sub-§6</b>, as amended by PL 2019, c. 231, Pt. B, §3, is further amended to read:</p> <p><b>6. Limited authorization for sale of marijuana plants and, marijuana seeds, <u>marijuana flower and marijuana trim</u> by registered caregiver or registered dispensary to cultivation facility licensee.</b> Notwithstanding any other provision of law to the contrary and subject to the requirements and restrictions of this section, for a period starting on the date that the department issues the first active cultivation facility license under section 205, subsection 4, <u>except as provided in paragraph A</u>, and ending 2 years after that date, a registered caregiver or a registered dispensary may sell marijuana plants <del>and, marijuana seeds, marijuana flower and marijuana trim</del> to a cultivation facility licensee <del>that is also a registered caregiver or a registered dispensary</del> and a cultivation facility licensee <del>that is also a registered caregiver or a registered dispensary</del> may purchase marijuana plants <del>and, marijuana seeds, marijuana flower and marijuana trim</del> from a registered caregiver or a registered dispensary. The department shall post on its publicly</p>	<p><b>Re PART A</b></p> <p><b><u>Title 28-B, §501. Operation of cultivation facilities</u></b></p> <p><b>6. Limited authorization for sale of marijuana plants and marijuana seeds by registered caregiver or registered dispensary to cultivation facility licensee.</b> Notwithstanding any other provision of law to the contrary and subject to the requirements and restrictions of this section, for a period starting on the date that the department issues the first active cultivation facility license under section 205, subsection 4 and ending 2 years after that date, a registered caregiver or a registered dispensary may sell marijuana plants and marijuana seeds to a cultivation facility licensee that is also a registered caregiver or a registered dispensary and a cultivation facility licensee that is also a registered caregiver or a registered dispensary may purchase marijuana plants and marijuana seeds from a registered caregiver or a registered dispensary. The department shall post on its publicly accessible website information regarding the date on which the department issues the first active cultivation facility license and the date that is 2 years after the date the first active cultivation facility license is issued.</p>

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accessible website information regarding the date on which the department issues the first active cultivation facility license and the date that is 2 years after the date the first active cultivation facility license is issued.

A. Beginning on the date that the department issues the first active cultivation facility license and, except as provided by the department by rule pursuant to this paragraph, ending 2 years after that date, in an active cultivation facility license issued to any cultivation facility licensee that has demonstrated to the department's satisfaction that the licensee is also a registered caregiver or a registered dispensary, the department shall include language authorizing the licensee, at any time within the licensee's first year of licensure and prior to the expiration of the authorized transfer period, to purchase an unlimited number of marijuana plants and marijuana seeds and an unlimited amount of marijuana flower and marijuana trim from registered caregivers and registered dispensaries. This authorization may not be included in any license issued upon renewal under section 209. The department may by rule extend the end date for the authorized transfer period under this subsection beyond 2 years after the date the department issues the first active cultivation facility license. If the department adopts by rule a later end date for the authorized transfer period under this paragraph, beginning on the effective date of the rule, the department shall use that later end date in providing the authorization that may be granted pursuant to this paragraph to a cultivation facility licensee.

B. A cultivation facility licensee authorized pursuant to paragraph A to purchase marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim from registered caregivers and registered dispensaries that transacts such a purchase shall pay to the State Tax Assessor the excise taxes imposed pursuant to Title 36, chapter 723 on the sale of the marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim. In addition to payment of the required excise taxes under this paragraph, the cultivation facility licensee shall provide the department with an accounting of the transaction, which must include information on the registered caregiver or registered dispensary from which the licensee purchased the marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim; the number of mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds purchased in the

A. Beginning on the date that the department issues the first active cultivation facility license and ending 2 years after that date, in an active cultivation facility license issued to any licensee that has demonstrated to the department's satisfaction that the licensee is also a registered caregiver or a registered dispensary, the department shall include language authorizing the licensee, at any time within the licensee's first year of licensure, to purchase an unlimited number of marijuana plants and marijuana seeds from registered caregivers and registered dispensaries. This authorization may not be included in any license issued upon renewal under [section 209](#).

B. A cultivation facility licensee authorized pursuant to [paragraph A](#) to purchase marijuana plants and marijuana seeds from registered caregivers and registered dispensaries that transacts such a purchase shall pay to the State Tax Assessor the excise taxes imposed pursuant to [Title 36, chapter 723](#) on the sale of the marijuana plants and marijuana seeds. In addition to payment of the required excise taxes under this paragraph, the cultivation facility licensee shall provide the department with an accounting of the transaction, which must include information on the registered caregiver or registered dispensary from which the licensee purchased the marijuana plants and marijuana seeds, the number of mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds purchased in the transaction and any other information required by the department by rule.

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transaction; the amount, by weight, of marijuana flower and marijuana trim purchased in the transaction; and any other information required by the department by rule.

C. A cultivation facility licensee authorized pursuant to paragraph A to purchase marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim from registered caregivers and registered dispensaries may purchase an unlimited number of marijuana plants and marijuana seeds and an unlimited amount of marijuana flower and marijuana trim from more than one registered caregiver or registered dispensary and may transact more than one purchase of ~~marijuana plants and marijuana seeds~~ such items from a registered caregiver or registered dispensary. ~~A~~ Until October 1, 2021, a registered caregiver or registered dispensary may ~~not~~ sell marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim to more than one cultivation facility licensee authorized pursuant to paragraph A to purchase ~~marijuana plants and marijuana seeds~~ such items from registered caregivers and registered dispensaries and may ~~not~~ transact more than one sale of ~~marijuana plants and marijuana seeds~~ such items to a cultivation facility licensee authorized to make such purchases pursuant to paragraph A. The department may by rule extend the end date by which a registered caregiver or registered dispensary may make unlimited authorized transfers to cultivation facility licensees beyond October 1, 2021.

(1) If the department adopts by rule a later end date for the unlimited authorized transfers by registered caregivers and registered dispensaries under this paragraph, beginning on the effective date of the rule, the department shall use that later end date.

(2) If the department does not adopt by rule a later end date for the unlimited authorized transfers by registered caregivers and registered dispensaries under this paragraph, any registered caregiver or registered dispensary that has already made a transfer or transfers under this paragraph may make one additional authorized transfer to one cultivation facility licensee under this paragraph after October 1, 2021. Any registered caregiver or registered dispensary that has not made an authorized transfer before October 1, 2021 may make one authorized transfer to one cultivation facility licensee until such transfers are no longer permitted under paragraph A.

C. A cultivation facility licensee authorized pursuant to paragraph A to purchase marijuana plants and marijuana seeds from registered caregivers and registered dispensaries may purchase marijuana plants and marijuana seeds from more than one registered caregiver or registered dispensary and may transact more than one purchase of marijuana plants and marijuana seeds from a registered caregiver or registered dispensary. A registered caregiver or registered dispensary may not sell marijuana plants and marijuana seeds to more than one cultivation facility licensee authorized pursuant to paragraph A to purchase marijuana plants and marijuana seeds from registered caregivers and registered dispensaries and may not transact more than one sale of marijuana plants and marijuana seeds to a cultivation facility licensee authorized to make such purchases pursuant to [paragraph A](#).

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D. A cultivation facility licensee that violates this subsection or the rules adopted pursuant to this subsection is subject to the imposition by the department of monetary penalties, a license revocation or suspension and an order directing the destruction of unauthorized marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim pursuant to subchapter 8 in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules. A registered caregiver or registered dispensary that violates ~~paragraph C~~ this subsection or the rules adopted pursuant to this subsection is subject to the revocation of its registration or other applicable penalty under the Maine Medical Use of Marijuana Act in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules.

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.

**PART B**

**Sec. B-1. 36 MRSA §4923, sub-§5**, as enacted by PL 2019, c. 231, Pt. B, §7, is amended to read:

**5. Excise tax on purchases from registered caregivers and registered dispensaries.** A cultivation facility licensee authorized pursuant to Title 28-B, section 501, subsection 6, paragraph A to purchase marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim from registered caregivers and registered dispensaries that transacts such a purchase shall pay to the assessor the excise taxes that would have been imposed under subsections 1 to 4 on the sale of the marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim if the marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim had been sold by a cultivation facility licensee to another licensee.

D. A cultivation facility licensee that violates this subsection or the rules adopted pursuant to this subsection is subject to the imposition by the department of monetary penalties, a license revocation or suspension and an order directing the destruction of unauthorized marijuana plants and marijuana seeds pursuant to subchapter 8 in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules. A registered caregiver or registered dispensary that violates paragraph C is subject to the revocation of its registration or other applicable penalty under the Maine Medical Use of Marijuana Act in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules.

The department shall adopt rules to implement this subsection.

**Re PART B**

**36 MRSA §4923. Excise Tax Imposed**

Beginning on the first day of the calendar month in which adult use marijuana may be sold in the State by a cultivation facility under Title 28-B, chapter 1, an excise tax on adult use marijuana is imposed in accordance with this chapter.

<b>Fiscal Impact</b>	Fiscal impact information not available at time of writing.
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