

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: 5-10-21

To: Veterans & Legal Affairs Committee

From: Sam Praver, Legislative Analyst

<u>LD 525, An Act To Allow Medical and Adult Use Marijuana Stores To Share a Common Space</u>	
<b>Summary</b>	This bill allows the use of a shared facility for retail sale of adult use marijuana and adult use marijuana products and sale of marijuana and marijuana products for medical use, as long as the adult use marijuana and adult use marijuana products are sold using a different cash register than that used for sales of marijuana and marijuana products for medical use.
<b>LD 525</b>	<b>Current Law</b>
<p><b>Sec. 1.</b> 28-B MRSA §504, sub-§5, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by c. 452, §37, is repealed.</p> <p><b>Sec. 2.</b> 28-B MRSA §504, sub-§5-A is enacted to read:</p> <p><b><u>5-A. Use of shared facility for retail sale of adult use marijuana and adult use marijuana products and sale of marijuana and marijuana products for medical use.</u></b> A marijuana store licensee that is also a registered caregiver or a registered dispensary may sell or offer for sale to consumers adult use marijuana and adult use marijuana products pursuant to this chapter within the same facility or building in which the licensee also sells or offers for sale to qualifying patients marijuana and marijuana products for medical use pursuant to the Maine Medical Use of Marijuana Act, as long as the adult use marijuana and adult use marijuana products are sold using a different cash register than that used for sales of marijuana and marijuana products for medical use.</p>	<p><b><u>28-B MRSA §504</u></b></p> <p><b>5. Prohibition on use of shared facility for retail sale of adult use marijuana and adult use marijuana products and marijuana and marijuana products for medical use.</b> A marijuana store licensee that is also a registered caregiver or a registered dispensary may not sell or offer for sale to consumers adult use marijuana and adult use marijuana products pursuant to this chapter within the same facility or building in which the licensee also sells or offers for sale to qualifying patients marijuana and marijuana products for medical use pursuant to the Maine Medical Use of Marijuana Act.</p>
<b>Notes</b>	<ul style="list-style-type: none"> <li>• <b>Product Separation.</b> Language does not specify that the products must be kept apart, only that a different cash register must be used.</li> <li>• <b>Re: Municipal Authorization.</b> The bill specifies a “marijuana store licensee,” referring to a person licensed to sell adult use (this could be clarified by writing “licensed under this title”). As long as adult use is subject to municipal approval this bill will not allow an adult use store in a municipality that has not authorized one. However, if municipalities want authority over shared facilities specifically, that should be addressed in the language.</li> </ul>
<b>Fiscal Impact</b>	Fiscal impact information not available at time of writing.

## OFFICE OF POLICY AND LEGAL ANALYSIS

### Notes: Re Co-location of Adult Use and Medical Retail

Three of the bills under consideration by the committee today, and one bill not on today's schedule, include provisions that would in one way or another remove the prohibition on Adult Use and Medical Use marijuana being located in the same building, as shown in the chart below:

<b>LD 301</b>	Removes prohibition on being located in the same building; Prohibits co-mingling; requires separate entrances
<b>LD 605</b>	Removes prohibition on being located in the same building.
<b>LD 525</b>	Allows within the same facility or building in which the licensee also sells or offers for sale to qualifying patients marijuana and marijuana products for medical use, as long as the adult use marijuana and adult use marijuana products are sold using a different cash register than that used for sales of marijuana and marijuana products for medical use.

#### Notes:

Removing or altering the shared facility or building prohibitions, as shown above have a number of implications that should be considered.

- **Facility is Broad.** If only removing the prohibition on co-location within the same building (but leaving the prohibition for facility) as shown in the proposed language for 605, it is unclear exactly what will be allowed.

The word “facility” comes up in a number of definitions within Title 28-B, including **Marijuana Store**: “a facility licensed under this chapter to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.”

- **Alignment of statutory definitions.** Whichever terms or parameters are used it should be clear which kind of co-location that is or is not allowed and the terms relied upon should be consistently defined in both titles.
- **Who may enter.** The adult use law prohibits anyone under 21 years of age from entering the premises of a marijuana establishment (28-B §507). This prohibition does not exist in the medical context. **Marijuana Establishment means:** “a cultivation facility, a products manufacturing facility, a testing facility, a marijuana store or a sample collector licensed under this chapter.”
- **Additional prohibitions/inconsistencies.** There may be other considerations to ensure consistency between the operating restrictions in both titles and the relevant rules.