

Marijuana Information Tables

VLA Work Session 5-10-21

| Department Rulemaking Authority Chart: Medical Marijuana | | |
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| Statutory Section | Language | Summary |
| §2422-A. | <p>§2422-A. Administration and enforcement; rulemaking</p> <p>1. Administration and enforcement. The department shall administer and enforce this chapter and the rules adopted pursuant to this chapter, except that the administration and enforcement by the department of this chapter and the rules adopted pursuant to this chapter may not be assigned to any bureau or division within the department responsible for the administration and enforcement of the laws governing the manufacture, sale and distribution of liquor.</p> <p>2. Rulemaking. The department, after consultation with the Department of Health and Human Services, may adopt rules as necessary to administer and enforce this chapter or amend rules previously adopted pursuant to this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.</p> | <ul style="list-style-type: none"> • General rulemaking authority for the administration and enforcement of medical marijuana program • Must consult with DHHS • Routine technical rules • Partial source of authority for security provisions |
| §2423-A. | <p>D. (<i>CONFLICT: Text as repealed and replaced by PL 2019, c. 354, §3</i>) The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing marijuana testing facilities, including but not limited to:</p> <ol style="list-style-type: none"> (1) Marijuana testing facility officer or director qualification requirements; (2) Required security for marijuana testing facilities; and (3) Requirements for the registration, certification or other approval of marijuana testing facilities. <p>The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter.</p> <p>D. (<i>CONFLICT: Text as repealed and replaced by PL 2019, c. 331, §13</i>) The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing marijuana testing facilities, including but not limited to:</p> <ol style="list-style-type: none"> (1) Marijuana testing facility officer or director qualification requirements; (2) Required security for marijuana testing facilities; and (3) Requirements for the licensing, certifying or other approval of marijuana testing facilities. <p>The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter.</p> <p>D-1. Upon the adoption of rules pursuant to paragraph D and this paragraph, a marijuana testing facility must be certified by the certification program established pursuant to section 569 as meeting all operational and technical requirements in accordance with rules adopted by the department after consultation with the Maine Center for Disease Control and Prevention. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. A marijuana testing facility operating in compliance with this chapter on the date of the adoption of rules pursuant to this paragraph and paragraph D may continue to operate pending completion of certification under this paragraph. The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter.</p> | <ul style="list-style-type: none"> • Rules regarding testing facilities • Statutory conflict • Routine technical |
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| §2423-B. | <p>2-A. Minor qualifying patient. A medical provider who provides a written certification to a patient who has not attained 18 years of age:</p> <p>...</p> <p>D. If a patient does not satisfy the requirements of paragraphs B and C, may provide a written certification to a qualifying patient after consulting with a physician from a list of physicians who may be willing to consult with a medical provider maintained by the department that is compiled by the department after consultation with the Department of Health and Human Services and statewide associations representing licensed medical professionals. The consultation between the medical provider and the consulting physician may consist of examination of the patient or review of the patient’s medical file. The consulting physician shall provide an advisory opinion to the medical provider and the parent, legal guardian or person having legal custody of the qualifying patient concerning whether the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient’s medical diagnosis. If the department or the consulting physician does not respond to a request by the medical provider within 10 days of receipt of the request, the medical provider may provide a written certification without consultation with a physician.</p> <p>The parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age may submit a request to the department for reimbursement of the costs associated with obtaining a 2nd opinion required by this paragraph. Requests must be submitted on a form developed by the department. The department shall review the family’s annual income and expenses in determining whether to reimburse the family from the Medical Use of Marijuana Fund under section 2430 for the cost of the required 2nd consultation.</p> <p>The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement the reimbursement request under this paragraph.</p> <p>...</p> <p>4. Form; content. A written certification under this section must be in the form required by rule adopted by the department and may not require a qualifying patient’s medical provider to state the patient’s specific medical diagnosis.</p> | <ul style="list-style-type: none">• Rules regarding reimbursement of the costs associated with obtaining a 2nd opinion and making such requests.• Routine technical |
| §2423-F. | <p>4. Authorized conduct; manufacturing facilities. A registered manufacturing facility:</p> <p>...</p> <p>F. Shall dispose of harvested marijuana used in the manufacturing process in a manner that prevents its diversion to persons not authorized to possess harvested marijuana possessed by the facility and in accordance with rules adopted by the department;</p> <p>5. Authorized conduct; extraction using inherently hazardous substances. A person that is authorized to engage in marijuana extraction using inherently hazardous substances pursuant to subsection 3:</p> <p>...</p> <p>F. Shall dispose of harvested marijuana used in the extraction process in a manner that prevents its diversion to persons not authorized to possess harvested marijuana possessed by the person and in accordance with rules adopted by the department;</p> <p>10. Rulemaking. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing manufacturing facilities, including but not limited to:</p> <p>A. Requirements for the registration of a manufacturing facility and an officer or director or assistant of a registered manufacturing facility;</p> | <ul style="list-style-type: none">• Rules regarding manufacturing facilities• Disposal of hazardous substances• Routine technical |

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| | <p>B. Requirements for engaging in marijuana extraction using inherently hazardous substances; C. Manufacturing facility officer or director qualification requirements; D. Required security for manufacturing facilities; E. Requirements of a disposal plan for harvested marijuana used in the manufacturing process; and F. Minimum record-keeping requirements, including an annual audit requirement. G. [PL 2019, c. 331, §17 (RP).]</p> <p>The failure of the department to adopt rules under this subsection does not prevent a person authorized pursuant to subsection 3, paragraph A from engaging in conduct authorized under this section.</p> | |
| <p>§2424.</p> | <p>1-A. Rulemaking. The department may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.</p> <p>2. Adding debilitating medical conditions. [PL 2017, c. 452, §10 (RP).]</p> <p>3. Registration. The department shall adopt rules governing the manner in which it considers applications for and renewals of registry identification cards or registration certificates for a person required to obtain a registry identification card or registration certificate under this chapter. The department's rules must require the submission of an application, must require replacement of a registry identification card or registration certificate that has been lost, destroyed or stolen or that contains information that is no longer accurate and must establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this chapter and that are consistent with the provisions of section 2425-A, subsection 10. The department may establish a sliding scale of application and renewal fees based upon a registered patient's family income and status as a veteran of the Armed Forces of the United States. The department may accept donations from private sources in order to reduce the application and renewal fees.</p> <p>4. Enforcement and compliance. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A regarding enforcement and compliance of authorized conduct under this chapter, including rules governing: A. Minimum oversight requirements for dispensaries and registered caregivers and the one permitted additional location at which a dispensary cultivates marijuana plants for medical use by qualifying patients; and [PL 2017, c. 452, §10 (NEW).] B. Minimum security requirements for registered caregivers operating caregiver retail stores pursuant to section 2423-A, subsection 2, paragraph P and registered dispensaries and any additional location at which a dispensary cultivates marijuana plants for medical use by qualifying patients.</p> | <ul style="list-style-type: none"> • General authority to carryout purposes of the chapter • Applications for and renewals of registry identification cards or registration certificates • Enforcement and compliance of authorized conduct • Partial source of authority for security provisions • Routine technical |
| <p>§2425-A.</p> | <p>3-A. Criminal history record check for caregivers administering medical marijuana on school grounds. The department shall request a criminal history record check for a caregiver designated under section 2423-A, subsection 1, paragraph F-1, subparagraph (4), except for a caregiver who is a parent, a legal guardian or a person having legal custody of the qualifying patient. The department may not issue a registry identification card to an applicant who is not permitted to have a disqualifying drug offense or who would be denied an approval, credential, certification, authorization or renewal under Title 20-A, section 6103 or 13011 based on that criminal history record check.</p> | <ul style="list-style-type: none"> • Rules regarding criminal history records for caregivers • Must consult with Department of Public Safety, Bureau of State |

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The criminal history record check requested under this subsection must include criminal history record information obtained from the Maine Criminal Justice Information System established in [Title 16, section 631](#) and the Federal Bureau of Investigation. The following provisions apply.

- A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in [Title 16, section 703](#), subsection 8.
- B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.
- C. A person subject to a criminal history record check under this section shall submit to having fingerprints taken. The State Police, upon payment of the fee, shall take or cause to be taken the person's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.
- D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to [Title 16, section 709](#).
- E. State and federal criminal history record information may be used by the department for the purpose of screening a person in accordance with this chapter.
- F. Information obtained pursuant to this subsection is confidential. The results of criminal history record checks received by the department are for official use only and may not be disseminated to any other person.
- G. If a person is no longer subject to this chapter that person may request in writing that the State Bureau of Identification remove the person's fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the person's fingerprints from the fingerprint file and provide written confirmation of that removal.

The department, with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, 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.

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10. Fees. The department shall adopt rules to establish fees in accordance with this subsection. The fees must be credited to the Medical Use of Marijuana Fund pursuant to section 2430. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

- A. There is no annual registration fee for a qualifying patient or visiting qualifying patient or a caregiver who is not required to register pursuant to [section 2423-A, subsection 3, paragraph C](#). There is no annual registration fee for a caregiver who does not cultivate marijuana plants for a qualifying patient.
- B. There is an annual registration fee for a caregiver who cultivates marijuana plants on behalf of a qualifying patient pursuant to [section 2423-A, subsection 2, paragraph B](#). The fee may not be less than \$50 or more than \$240 for each group of up to 6

Police, State Bureau of Identification

- Fees credited to the Medical Use of Marijuana Fund
- Reporting of patient access information by registered caregivers and dispensaries
- Routine technical

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| | <p>mature marijuana plants cultivated by the caregiver. The caregiver shall notify the department of the number of marijuana plants the caregiver cultivates.</p> <p>C. There is an annual registration fee for a dispensary, which may not be less than \$5,000 or more than \$12,000. There is a fee to change the location of a registered dispensary or the location at which a registered dispensary cultivates marijuana plants, which may not be less than \$3,000 or more than \$4,000.</p> <p>D. There is an annual registration fee for a tier 1 manufacturing facility, which may not be less than \$50 or more than \$150.</p> <p>E. There is an annual registration fee for a tier 2 manufacturing facility, which may not be less than \$150 or more than \$250.</p> <p>F. There is an annual registration fee to engage in marijuana extraction under section 2423-F, subsection 3, which may not be less than \$250 or more than \$350.</p> <p>G. There is an annual registration fee for a marijuana testing facility, which may not be less than \$250 or more than \$1,000, except that there is no fee if the testing facility is licensed in accordance with Title 28-B, chapter 1.</p> <p>H. There is an annual registration fee for an officer or director or assistant of a registered caregiver or registered dispensary, which may not be less than \$20 or more than \$50.</p> <p>I. There is a fee to replace a registry identification card that has been lost, stolen or destroyed or a card that contains information that is no longer accurate, which may not be less than \$10 or more than \$20. Replacement of a registry identification card does not extend the expiration date.</p> <p>J. There is an annual fee for a criminal history record check for a caregiver or an officer or director or assistant of a registered dispensary, marijuana testing facility or manufacturing facility, which may not be less than \$31 or more than \$60. The fee must be paid by the caregiver or by the registered dispensary, marijuana testing facility or manufacturing facility for an officer or director or assistant of the registered dispensary, marijuana testing facility or manufacturing facility.</p> <p>...</p> <p>13. Reporting requirements. This subsection governs the reporting of patient access information by registered caregivers and dispensaries and the department's annual report to the Legislature.</p> <p>A. A registered caregiver or a dispensary shall submit annually a report of the number of qualifying patients and visiting qualifying patients assisted by the caregiver or dispensary. A report may not directly or indirectly disclose patient identity. The department shall adopt rules to implement this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.</p> | |
| <p>§2428.</p> | <p>1-A. Provisions pertaining to registered dispensary. For the purpose of assisting a qualifying patient, a registered dispensary may in accordance with rules adopted by the department:</p> <p>A. Dispense up to 2 ½ ounces of harvested marijuana to the qualifying patient in one transaction, except that a dispensary may not dispense more than 2 ½ ounces of harvested marijuana to a visiting qualifying patient during a 15-day period;</p> <p>B. Cultivate marijuana plants and possess all harvested marijuana from those marijuana plants;</p> <p>C. Receive reasonable monetary compensation for costs associated with assisting or for cultivating marijuana plants for the qualifying patient;</p> <p>D. Assist the qualifying patient with the medical use or administration of harvested marijuana;</p> <p>E. Obtain harvested marijuana from a caregiver under section 2423-A, subsection 2, paragraph K;</p> <p>F. Except as provided in section 2426:</p> | <ul style="list-style-type: none"> • Rules for registered dispensaries • Routine technical |

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- (1) Transfer marijuana plants and harvested marijuana to a qualifying patient and to a caregiver on behalf of a qualifying patient in a retail sale for reasonable compensation;
 - (2) Transfer marijuana plants and harvested marijuana to a qualifying patient, caregiver or dispensary for no remuneration;
 - (3) Acquire marijuana plants and harvested marijuana from another dispensary for no remuneration;
 - (4) (CONFLICT: Text as repealed and replaced by PL 2019, c. 331, §24) Transfer to and accept from a registered caregiver or another dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A dispensary may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 30% of the mature marijuana plants grown by the dispensary over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 30% of the mature marijuana plants grown by the dispensary. A dispensary may transfer to or accept from registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A dispensary that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this subparagraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to a caregiver or dispensary to assist a qualifying patient;
 - (4) (CONFLICT: Text as repealed and replaced by PL 2019, c. 354, §7) Transfer to and accept from a registered caregiver or another dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A dispensary may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 75% of the mature marijuana plants grown by the dispensary over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 75% of the mature marijuana plants grown by the dispensary. A dispensary may transfer to or accept from registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A dispensary that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this subparagraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to a caregiver or dispensary to assist a qualifying patient;
 - (5) Transfer harvested marijuana to a manufacturing facility and accept marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the dispensary provided to the manufacturing facility; and
 - (6) Provide samples to a marijuana testing facility for testing and research purposes;
- G. Conduct marijuana testing at the request of anyone authorized to possess marijuana plants or harvested marijuana under this chapter for research and development purposes only;
- H. Manufacture marijuana products for medical use, except that a dispensary may not prepare food, as defined in [section 2152, subsection 4](#), unless licensed pursuant to [section 2167](#);
- I. Manufacture marijuana concentrate for medical use, except that a dispensary may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to [section 2423-F, subsection 3](#);
- J. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that is produced from the harvested marijuana the registered dispensary provided to the manufacturing facility;
- K. Hire any number of assistants to assist in performing the duties of the dispensary; and
- L. Transport marijuana plants and harvested marijuana as necessary to carry out the activities authorized under this section.

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11-A. Limitation on number of dispensaries registered. This subsection governs the limits on the number of dispensary registration certificates that may be issued by the department.

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| | <p>A. In addition to the 8 dispensary registration certificates issued as of April 1, 2018, the department shall issue 6 dispensary registration certificates to applicants that the department determines meet all criteria established in rule. Of the new registration certificates issued after April 1, 2018, the department may not issue more than one additional registration certificate to any dispensary operating in the State on April 1, 2018 or to its successor in interest and the department may not issue more than one dispensary registration certificate to any person that did not hold a dispensary registration certificate as of April 1, 2018. After January 1, 2021, the department may not limit the number of registration certificates it issues to a person to operate as a dispensary.</p> | |
| <p>§2430.</p> | <p>5. Medical marijuana research grant program established. The medical marijuana research grant program, referred to in this subsection as “the program,” is established within the department to provide grant money to support objective scientific research, including observational and clinical trials and existing research, on the efficacy of harvested marijuana as part of medical treatment and the health effects of harvested marijuana used as part of medical treatment. The program must be funded from the fund. The department shall adopt rules necessary to implement the program, including, but not limited to, required qualifications of persons conducting the research; determining the scientific merit and objectivity of a research proposal; criteria for determining the amount of program funds distributed; criteria for determining the duration of the research; procedures for soliciting research participants, including outreach to patients, and for obtaining the informed consent of participants; and reporting requirements for the results of the research and evaluation of the research results. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.</p> | <ul style="list-style-type: none"> • Rules to implement the medical marijuana research grant program • Routine technical |
| <p>§2430-E.</p> | <p>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.</p> | <ul style="list-style-type: none"> • Rules for when a cardholder has previously forfeited excess marijuana pursuant to subsection 1 and a subsequent forfeiture occurs • Routine technical |
| <p>§2430-F.</p> | <p>1. Department suspension or revocation. The department may suspend or revoke a registry identification card for violation of this chapter and the rules adopted under this chapter. Revocation in accordance with section 2430-E, subsection 2 is considered a final agency action, subject to judicial review under Title 5, chapter 375, subchapter 7. Unless otherwise specified as final agency action, a person who has had authorization for conduct under this chapter revoked due to failure to comply with this chapter and rules adopted by the department may request an informal hearing. The department shall adopt rules to specify the period of time, which may not exceed one year, that the person whose registry identification card was revoked is ineligible for reauthorization under this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.</p> <p>The department shall immediately revoke the registry identification card of an officer or director or assistant of a dispensary who is found to have violated section 2428, subsection 9, paragraph B, and that person is disqualified from serving as an officer or director or assistant of a dispensary.</p> | <ul style="list-style-type: none"> • Rules for suspension and revocation of a registry identification card • Routine technical |
| <p>§2430-G.</p> | <p>B. The department shall develop and implement a statewide electronic portal through which registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities may submit to the department the records required under paragraph A and in accordance with rules adopted by the department. A registered caregiver, registered dispensary,</p> | <ul style="list-style-type: none"> • Rules for track and trace program and creation of electronic portal and fees |

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marijuana testing facility and manufacturing facility shall pay all costs and fees associated with the use of this electronic portal and all other fees associated with the keeping of records required in this section in accordance with rules adopted by the department. The department shall adopt rules regarding the process and content of records to be submitted, the frequency with which the records must be submitted, the costs and fees associated with using the electronic portal and any other requirements necessary to implement this paragraph.

C. A registered caregiver, registered dispensary, marijuana testing facility and manufacturing facility shall accompany all marijuana plants and harvested marijuana being transported pursuant to this chapter with a label that identifies:

- (1) The person transferring the marijuana plants or harvested marijuana, including the person's registry identification number;
- (2) The person receiving the marijuana plants or harvested marijuana, including the person's registry identification number or, if the person is not required to register under this chapter, a unique identifier assigned to the person;
- (3) A description of the marijuana plants or harvested marijuana being transferred, including the amount and form;
- (4) The time and date of the transfer; and
- (5) The destination of the marijuana plants or harvested marijuana.

The department may adopt rules to implement this subsection.

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B. The department shall adopt rules:

- (1) Establishing standards for compliance with this chapter that are available publicly;
- (2) Establishing inspection procedures that prevent contamination of any operations undertaken by the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility in compliance with this chapter; and
- (3) Requiring a registered caregiver to report on the location within the registered caregiver's home where activity authorized under this chapter is occurring.

Rules adopted by the department pursuant to this paragraph may require that an annual compliance inspection is a condition of eligibility for renewal of a registration under this chapter.

...

3. Incident and illegal activity reporting. A registered caregiver, registered dispensary, marijuana testing facility and manufacturing facility shall report:

A. Any violation of this chapter or rule adopted under this chapter governing the operations of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility to the department within one business day of discovering the violation; and

B. Any suspected illegal activity involving the operations of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility to the department and law enforcement within 24 hours of discovering the suspected illegal activity.

- Standards for compliance
- Reporting of suspected illegal activity
- Procedures for suspension or termination of registration
- Routine technical

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| | <p>4. Procedures for suspending or terminating registration. The department shall adopt rules establishing procedures for suspending or terminating the registration of a registered dispensary or a registered caregiver that violates the provisions of this section or the rules adopted pursuant to this subsection.</p> <p>Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.</p> | |
| <p>§2430-H</p> | <p>Fines collected pursuant to this chapter and rules adopted by the department must be credited to the Medical Use of Marijuana Fund pursuant to section 2430.</p> | <ul style="list-style-type: none"> • Rules regarding the collection of fines • Routine technical |

Medical Marijuana: Statutory Provisions Regarding Law Enforcement

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| <p>2425-A. Department Disclosure</p> | <p>12. Confidentiality. This subsection governs confidentiality. ...</p> <p>D. The department shall verify to law enforcement personnel whether a registry identification card is valid and whether the conduct is authorized without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.</p> <p>...</p> <p>G. Records maintained by the department pursuant to this chapter that identify applicants for a registry identification card, registered patients, registered caregivers and registered patients' medical providers are confidential and may not be disclosed, except as provided in this subsection and as follows:</p> <p>...</p> <p>(5) To a law enforcement official for verification purposes. The records may not be disclosed further than necessary to achieve the limited goals of a specific investigation</p> |
| <p>2430-C. Seizure</p> | <p>6. Prohibition on seizure and retention. Except when necessary for an ongoing criminal or civil investigation, a law enforcement officer may not seize marijuana that is in the possession of a qualifying patient, caregiver, marijuana testing facility, manufacturing facility or registered dispensary as authorized by this chapter. A law enforcement officer in possession of marijuana in violation of this subsection shall return the marijuana within 7 days after receiving a written request for return by the owner of the marijuana. Notwithstanding the provisions of Title 14, chapter 741, if the law enforcement officer fails to return marijuana possessed in violation of this subsection within 7 days of receiving a written request for return of the marijuana under this subsection, the owner of the marijuana may file a claim in the District Court in the district where the owner lives or where the law enforcement officer is employed.</p> <p>7. Requirements for protection. To receive protection under this section for conduct authorized under this chapter, a person must:</p> <p>A. If the person is a qualifying patient or visiting qualifying patient, present upon request of a law enforcement officer the original written certification for the patient and the patient's government-issued identification that includes a photo and proof of address; or [PL 2017, c. 452, §24 (NEW).]</p> <p>B. If the person is a caregiver, present upon request of a law enforcement officer the original written document designating the person as a caregiver by the qualifying patient under section 2423-A, subsection 1, paragraph F-1 and the caregiver's government-issued identification that includes a photo and proof of address.</p> |
| <p>2430-E. Forfeiture</p> | <p>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:</p> |

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- 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;
- 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
- 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](#).

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.

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.

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.

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.

[2430-G.](#)
[Report](#)
[Suspected](#)
[Illegal](#)
[Activity](#)

3. Incident and illegal activity reporting. A registered caregiver, registered dispensary, marijuana testing facility and manufacturing facility shall report:
A. Any violation of this chapter or rule adopted under this chapter governing the operations of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility to the department within one business day of discovering the violation; and
B. Any suspected illegal activity involving the operations of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility to the department and law enforcement within 24 hours of discovering the suspected illegal activity.

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| 44 | Access to manufacturing area |
| 60 | Sales delivery manifest copies |
| 61 | Trip tickets for transfers of samples |
| 62 | Delivery manifest, self identification, etc |
| 70 | Home based security and access |
| 73 | Compliance and enforcement |

| Maine Administrative Procedure Act: Quick References (Title 5, Chapter 375) | |
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| §8002. Definitions | <p>4. Final agency action. "Final agency action" means a decision by an agency which affects the legal rights, duties or privileges of specific persons, which is dispositive of all issues, legal and factual, and for which no further recourse, appeal or review is provided within the agency.</p> |
| §8052. Rulemaking | <p>1. Notice; public hearing. Prior to the adoption of any rule, the agency shall give notice as provided in section 8053 and may hold a public hearing, except that a public hearing must be held if otherwise required by statute or requested by any 5 interested persons or if the rule is a major substantive rule as defined in section 8071, subsection 2, paragraph B. A public meeting or other public forum held by an agency for any purpose that includes receiving public comments on a proposed agency rule is a public hearing and is subject to all the provisions of this subchapter regarding public hearings.</p> <p>2. Requirements. Any public hearing shall comply with any requirements imposed by statute, but shall not be subject to subchapter IV. Any public hearing shall be held and conducted as follows. A. In the case of a rule authorized to be adopted by more than one agency member, at least 1/3 of the agency members shall be present. B. In the case of a rule authorized to be adopted by a single agency member, either the agency member, a person in a major policy-influencing position, as listed in chapter 71, or a designee who has responsibility over the subject matter to be discussed at the hearing shall hold and conduct the hearing.</p> <p>3. Statements and arguments filed. When a public hearing is held, written statements and arguments concerning the proposed rule may be filed with the agency within 10 days after the close of the public hearing, or within such longer time as the agency may direct.</p> <p>4. Relevant information considered. The agency shall consider all relevant information available to it, including, but not limited to, economic, environmental, fiscal and social impact analyses and statements and arguments filed, before adopting any rule.</p> <p>5. Written statement adopted. At the time of adoption of any rule, the agency shall adopt a written statement explaining the factual and policy basis for the rule. The agency shall list the names of persons whose comments were received, including through testimony at hearings, the organizations the persons represent and summaries of their comments. The agency shall address the specific comments and concerns expressed about any proposed rule and state its rationale for adopting any changes from the proposed rule, failing to adopt the suggested changes or drawing findings and recommendations that differ from those expressed about the proposed rule.</p> |

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A. If the same or similar comments or concerns about a specific issue were expressed by different persons or organizations, the agency may synthesize these comments and concerns into a single comment that accurately reflects the meaning and intent of these comments and concerns to be addressed by the agency, listing the names of the persons who commented and the organizations they represent.

B. A rule may not be adopted unless the adopted rule is consistent with the terms of the proposed rule, except to the extent that the agency determines that it is necessary to address concerns raised in comments about the proposed rule, or specific findings are made supporting changes to the proposed rule. The agency shall maintain a file for each rule adopted that must include, in addition to other documents required by this Act, testimony, comments, the names of persons who commented and the organizations they represent and information relevant to the rule and considered by the agency in connection with the formulation, proposal or adoption of a rule. If an agency determines that a rule that the agency intends to adopt is substantially different from the proposed rule, the agency shall request comments from the public concerning the changes from the proposed rule. The agency may not adopt the rule for a period of 30 days from the date comments are requested pursuant to this paragraph. Notice of the request for comments must be published by the Secretary of State in the same manner as notice for proposed rules.

C. If the adoption under this subsection is final adoption of a major substantive rule under subchapter II-A, the agency must include in its written statement citation of the legislative act authorizing final adoption of that rule; or, if authorization is the result of failure of the Legislature to act under [section 8072](#), subsection 7, the agency must indicate that fact and identify the date the agency filed the rule for review under [section 8072](#).

5-A. Impact on small business. In adopting rules, the agencies shall seek to reduce any economic burdens through flexible or simplified reporting requirements and may seek to reduce burdens through flexible or simplified timetables that take into account the resources available to the affected small businesses. The agency may consider clarification, consolidation or simplification of compliance or reporting requirements. For the purposes of this subsection, "small business" means businesses that have 20 or fewer employees.

Prior to the adoption of any proposed rule that may have an adverse impact on small businesses, the agency shall prepare an economic impact statement that includes the following:

- A. An identification of the types and an estimate of the number of the small businesses subject to the proposed rule;
- B. The projected reporting, record-keeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;
- C. A brief statement of the probable impact on affected small businesses; and
- D. A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed rule.

6. Effective date. No rule, except emergency rules adopted under [section 8054](#), becomes effective until at least 5 days after filing with the Secretary of State under [section 8056, subsection 1, paragraph B](#).

When the effective date of a rule is contingent upon the occurrence or nonoccurrence of an event, notification of the occurrence or nonoccurrence must be filed with the Secretary of State when known.

7. Adoption of rule. A rule may not take effect unless:

- A. The agency adopts it within 120 days of the final date by which data, views or arguments may be submitted to the agency for consideration in adopting the rule; and
- B. This adopted rule is approved by the Attorney General as to form and legality, as required by [section 8056](#), within 150 days of the final date by which those comments may be submitted.

The final date for comments may be extended if notice of doing so is published within 14 days after the most recently published comment deadline, in the consolidated notice referred to in [section 8053](#).

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| | <p>8. Appropriate reference to underlying federal and state laws and regulations. At the time of adoption of any rule, the agency shall refer with particularity to any underlying federal or state law or regulation which serves as the basis of the rule.</p> |
| <p><u>§8063. Fiscal impact</u></p> | <p>Every rule proposed by an agency must contain a fiscal impact note at the end of the rule. The note must be placed on the rule prior to any public hearing and, in the case of rules adopted without a hearing, prior to the sending of notice under section 8053. The fiscal impact note must describe the estimated cost to municipalities and counties for implementing or complying with the proposed rule. If the proposed rule will not impose any cost on municipalities or counties, the fiscal impact note must state that fact.</p> <p>This section does not apply to emergency rules.</p> |
| <p><u>§8071. Legislative review of certain agency rules</u></p> | <p>2. Categories of rules. There are 2 categories of rules authorized for adoption after January 1, 1996.</p> <p>A. Routine technical rules are procedural rules that establish standards of practice or procedure for the conduct of business with or before an agency and any other rules that are not major substantive rules as defined in <u>paragraph B</u>. Routine technical rules include, but are not limited to, forms prescribed by an agency; they do not include fees established by an agency except fees established or amended by agency rule that are below a cap or within a range established by statute.</p> <p>B. Major substantive rules are rules that, in the judgment of the Legislature:</p> <ol style="list-style-type: none"> (1) Require the exercise of significant agency discretion or interpretation in drafting; or (2) Because of their subject matter or anticipated impact, are reasonably expected to result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefits or services, the imposition of state mandates on units of local government as defined in the Constitution of Maine, Article IX, Section 21, or other serious burdens on the public or units of local government. |

[LD 1539, An Act To Amend Maine's Medical Marijuana Law \(Enacted, 128th 2S\)](#)

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| <p>Summary</p> | <p>Public Law 2017, chapter 452:</p> <ol style="list-style-type: none"> 1. Eliminates the list of debilitating medical conditions for which a medical provider may provide a written certification and instead allows a medical provider to certify use to patients who have a medical diagnosis that may be alleviated by the therapeutic or palliative use of marijuana; 2. Eliminates the requirement that qualifying patients designate a primary caregiver or dispensary as the sole provider of cultivation services or medical marijuana; 3. Increases the possession limit in law for qualifying patients and unregistered caregivers from 2 1/2 ounces to eight pounds, which was the amount previously authorized in rules adopted by the Department of Health and Human Services; 4. Increases the possession limit for registered caregivers and dispensaries from an amount based on the number of patients who have designated the registered caregiver or dispensary to the amount that the registered caregiver or dispensary cultivated or otherwise lawfully acquired; |
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5. Allows registered caregivers and dispensaries to sell up to 30% of the marijuana the registered caregiver or dispensary cultivated to another registered caregiver or dispensary in wholesale transactions;
6. Authorizes qualifying patients, caregivers and dispensaries to manufacture marijuana products as long as certain substances that are considered hazardous are not used;
7. Authorizes qualifying patients, caregivers and dispensaries to produce marijuana concentrate using substances that are considered hazardous if certain safety and inspection requirements are met;
8. Establishes a registration process for persons and entities that are not qualifying patients, caregivers or dispensaries to manufacture marijuana products and to engage in marijuana extraction using substances that are considered hazardous if certain safety and inspection requirements are met;
9. Expands the authorization of a qualifying patient to use medical marijuana in certain assisted living and residential care facilities, in addition to hospice and nursing facilities, as long as that use is consistent with the facility's policy;
10. Allows medical marijuana testing facilities to operate in the absence of rules adopted by the Department of Health and Human Services if the facilities meet certain standards;
11. Establishes packaging, labeling and marketing requirements for the sale of medical marijuana;
12. Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to track marijuana within the medical marijuana program from seeds to final user;
13. Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to maintain books and records and allows the Department of Health and Human Services to inspect those books and records;
14. Establishes additional authority for the Department of Health and Human Services to oversee medical marijuana-related activities, including the authority to inspect registered caregiver operations, dispensaries, marijuana testing facilities and manufacturing facilities during regular business hours or hours of apparent activity without notice, except that the department may not enter the dwelling unit of a registered caregiver to undertake an inspection if the caregiver is not present;
15. Requires that records containing patient information be kept in a manner that does not allow identification of the patient or be kept confidential;
16. Directs the Department of Health and Human Services to issue six registration certificates to dispensaries, in addition to the eight dispensaries existing on April 1, 2018, to different entities, except that an existing dispensary may be awarded one additional registration certificate if its application is approved by the department;

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17. Prohibits the Department of Health and Human Services from limiting the number of dispensary registration certificates issued after January 1, 2021;
18. Removes the requirement in current law that a dispensary must operate as a nonprofit business entity;
19. Establishes a grant program to support objective scientific research funded by revenue from the Medical Use of Marijuana Fund and requires the Department of Health and Human Services to adopt rules to implement the grant program by March 1, 2019;
20. Clarifies that a registered caregiver may operate one retail store to sell harvested marijuana to qualifying patients;
21. Provides that a municipality may not prohibit registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are operating with municipal approval in the municipality prior to the effective date of this legislation and that a municipality may not authorize registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are not operating on the effective date of this legislation to operate in the municipality unless the municipal legislative body has voted to adopt or amend an ordinance or approve a warrant article allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities to operate within the municipality;
22. Allows businesses that are not permitted to deduct business expenses under federal law due to the United States Internal Revenue Code of 1986, Section 280E to deduct business expenses to the same extent as if those expenses were not excluded from deduction for federal tax purposes and requires the cost of these deductions, as well as the cost of administering these deductions, to be paid from the Medical Use of Marijuana Fund, to the extent that funds are available in the fund for those purposes;
23. Requires a caregiver, except for a caregiver who is a parent, guardian or person having legal custody of the qualifying patient, designated to possess medical marijuana for use by a qualifying patient and administer medical marijuana to a qualifying patient who is enrolled in primary or secondary school to submit to the same background check applicable to education personnel. The background check required includes fingerprinting. It also clarifies that a parent, guardian or person having legal custody of a qualifying patient who is enrolled in school may possess medical marijuana for use by that qualifying patient and administer medical marijuana to that qualifying patient;
24. Requires the Department of Health and Human Services to consult with statewide associations representing licensed medical professionals to develop and provide educational materials related to medical marijuana; and
25. Corrects cross-references and terms in the Maine Medical Use of Marijuana Act to conform to the Maine Revised Statutes, Title 28-B, Adult Use Marijuana, as enacted in Public Law 2017, chapter 409. It also provides for the change in the terms "primary caregiver" and "registered primary caregiver" to "caregiver" and "registered caregiver," respectively.

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LD 1719, An Act To Implement a Regulatory Structure for Adult Use Marijuana (128th 2R)

Public Law 2017, chapter 409 facilitates the development and administration of a regulated marketplace in the State for adult use marijuana and the regulation of the personal use of marijuana and the home cultivation of marijuana for personal adult use pursuant to the Marijuana Legalization Act, as approved by the voters at referendum in November 2016.

Public Law 2017, chapter 409 repeals the Act, as codified in the Maine Revised Statutes, Title 7, chapter 417, and recodifies it in a new Title 28-B, Adult Use Marijuana, while retaining the substance of the original Act with the following changes.

1. It uses the term "adult use marijuana" instead of the term "retail marijuana."
2. It clarifies the distinction between and provides definitions for the terms "marijuana plant," "mature marijuana plant," "immature marijuana plant" and "seedling."
3. It changes the definition of the term "plant canopy" to include in the calculation of plant canopy only those areas in which mature marijuana plants are to be cultivated.
4. It defines the term "resident" for the purposes of licensure as a natural person who is domiciled in Maine, maintains a permanent place of abode in Maine and spends in the aggregate more than 183 days of the taxable year in Maine and has filed a resident individual income tax return pursuant to Title 36, Part 8 in each of the four years prior to the year in which the person files an application for licensure under the Act. The provision of this definition requiring the filing of resident individual income tax returns for the four years prior to applying for a license is repealed June 1, 2021.
5. It clarifies that any conduct relating to the possession, cultivation, manufacture, testing, consumption, sale or offering for sale of marijuana or marijuana products that is not specifically authorized under the Act, pursuant to a license issued under the Act or pursuant to the Maine Medical Use of Marijuana Act is not authorized and that a person who engages in such unauthorized conduct is subject to penalties under the Act and any additional criminal or civil penalties that may be imposed under other applicable laws or rules.
6. It designates the department of Administrative and Financial Services as the sole regulatory agency in the implementation, administration and enforcement of the Act, but requires the department to consult with the Department of Agriculture, Conservation and Forestry prior to the adoption of rules relating to the regulation of the cultivation, manufacture, testing, labeling and packaging of adult use marijuana and adult use marijuana products. It further clarifies the role and authority of the department in the implementation, administration and enforcement of the Act.
7. It requires the department to implement and administer a tracking system for adult use marijuana from immature marijuana plant to the point of retail sale, disposal or destruction.

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8. It requires the department to facilitate the collection and analysis of public health and safety data relating to the effects of the use of marijuana in the State. 9. It requires the department to facilitate the development and implementation of programs, initiatives and campaigns focused on increasing the awareness of and educating the public on health and safety matters relating to the use of marijuana and marijuana products. Such programs, initiatives and campaigns may be funded with a portion of the excise tax and sales tax revenues resulting from the sale of adult use marijuana and adult use marijuana products.

10. It requires the department to facilitate the development and implementation of programs or initiatives providing enhanced training for criminal justice agencies in the requirements and enforcement of the Act. Such programs and initiatives may be funded with a portion of the excise tax and sales tax revenues resulting from the sale of adult use marijuana and adult use marijuana products.

11. It requires the department to submit to the Legislature an annual report, beginning February 15, 2020, which must include specific information and data relating to the regulated market for adult use marijuana in the State.

12. It removes from the Act provisions regulating the licensure and operation of marijuana social clubs and the issuance of occupational licenses.

13. It clarifies general licensing criteria for applicants seeking to operate an adult use marijuana establishment and specific additional licensing requirements applicable to the licensing of adult use marijuana cultivation facilities. It removes from the former Act provisions relating to preference in licensure for medical marijuana caregivers and medical marijuana dispensaries. It removes from the former Act the caps on the number of each license type that may be issued, except that it:

A. Limits the number of marijuana store licenses in common ownership to four marijuana store licenses, but repeals that limitation January 1, 2022; and

B. Limits the number of cultivation facility licenses in common ownership to three cultivation facility licenses not exceeding a combined licensed plant canopy of 30,000 square feet.

14. It separates within the Act the state-level and local-level licensing and approval processes for adult use marijuana establishments. An applicant for a license to operate an adult use marijuana establishment must submit an application along with the required application fee to the department, which, after review, may conditionally approve the license. The licensee may then seek local authorization from the locality in which the licensee proposes to operate the marijuana establishment. A municipality, which includes towns, cities and plantations not located within the unorganized and deorganized areas, by adopted ordinance may regulate marijuana establishments within the municipality, including, but not limited to, through the adoption of:

A. Land use regulations applicable to marijuana establishments within the municipality;

B. Municipal licensing requirements applicable to marijuana establishments within the municipality that may include the imposition of municipal approval or license fees; and

C. Limitations on the number of any type of marijuana establishment that may be approved or licensed to operate within the municipality.

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A municipality may not authorize the operation of a marijuana establishment within the municipality unless the legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including that type of marijuana establishment. A person that has been issued a conditional license by the department may not request municipal authorization to operate a marijuana establishment within a municipality unless the legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including that type of marijuana establishment. Public Law 2017, chapter 409 includes similar provisions regarding local authorization of marijuana establishments that are proposed to be located in towns, plantations or townships in the unorganized and deorganized areas of the State. Once the department receives certification of local authorization and the applicant pays the applicable license fee and submits any additional required documentation, the department must issue an active license, good for a term of one year from the date of issuance. A licensee may not engage in the cultivation, manufacture, testing, sale or offering for sale of marijuana or marijuana products until the licensee has been issued an active license by the department.

15. It revises and clarifies the application process for issuance and renewal of a state license to operate an adult use marijuana establishment, including revision of the application and license fees to be imposed by the department under the Act.

16. It revises the manner in which cultivation facilities are to be licensed and regulated by removing the statewide limitation on the total amount of licensed plant canopy and by authorizing five tiers of cultivation facility license types, the smallest of which, a tier 1 license, provides for the cultivation of up to 30 mature marijuana plants or up to 500 square feet of plant canopy and the largest of which, a tier 4 license, provides for the cultivation of up to 20,000 square feet of plant canopy. It also creates a nursery cultivation facility license tier, which allows for the cultivation of immature plants, seedlings and seeds and the sale of those immature plants, seedlings and seeds to other licensees and to consumers. A licensee seeking renewal of a tier 4 license may seek approval from the department to expand the area of plant canopy authorized under the license by 7,000 square feet, so long as certain criteria are met.

17. It clarifies operational requirements for each type of adult use marijuana establishment, including:

- A. Providing for the payment of an excise tax by cultivation facilities on the adult use marijuana sold to other licensees;
- B. Providing for the collection and remittance of a sales tax by marijuana stores on adult use marijuana and adult use marijuana products sold to consumers;
- C. Specifying standards for the extraction of marijuana concentrate by products manufacturing facilities;
- D. Specifying standards for the tracking of adult use marijuana and adult use marijuana products by each type of adult use marijuana establishment;
- E. Specifying standards for the sharing of facilities for the cultivation of adult use marijuana and the manufacturing of adult use marijuana and adult use marijuana products and marijuana and marijuana products for medical use by a licensee that is also a registered primary caregiver or registered dispensary, but prohibiting a marijuana store licensee that is also a registered primary caregiver or registered dispensary from selling adult use marijuana and

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- adult use marijuana products to consumers and marijuana and marijuana products for medical use to qualifying patients from the same facility or building;
- F. Requiring compliance by licensees with applicable packaging, labeling and health and safety requirements;
- G. Incorporating standards and requirements applicable to testing facilities as enacted in Public Law 2017, chapter 309;
- H. Clarifying sales authorizations and prohibitions applicable to marijuana stores including prohibitions on drive-through sales, sales by use of a delivery service, sales by use of an automated vending machine and Internet sales;
- I. Providing for a limited period in which a cultivation facility licensee that is also a registered primary caregiver or registered dispensary may purchase an unlimited number of marijuana plants and seeds from an entity that is also a registered primary caregiver or registered dispensary. Any such transactions are subject to the imposition of the excise tax imposed under the Act; and
- J. Prohibiting the employment of any person under 21 years of age by any marijuana establishment and prohibiting the entry into any marijuana establishment by a person under 21 years of age.
18. It clarifies and expands upon the standards and requirements for the testing of adult use marijuana and adult use marijuana products; the packaging, labeling and health and safety of adult use marijuana and adult use marijuana products; and the use of signs, advertising and marketing relating to adult use marijuana and adult use marijuana products.
19. It requires the department, after consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, to develop rules on required health and safety warning labels. It authorizes the use of the terms "organic," "organically cultivated" or "organically grown" on the label or packaging of adult use marijuana and adult use marijuana products consistent with rules on the use of such terms to be adopted by the department.
20. It provides for the imposition by the department of monetary penalties on a licensee or suspensions or revocations of a licensee's license for a violation of the Act, in accordance with the Maine Administrative Procedure Act, and limits the amount of such monetary penalties imposed to not more than \$10,000 per minor license violation, not more than \$50,000 per major license violation and not more than \$100,000 per major license violation affecting public safety.
21. It establishes the Marijuana Advisory Commission for the purpose of conducting a continuing study of the laws relating to marijuana and reporting to the Legislature its findings and recommendations on an annual basis.
22. It imposes an excise tax on adult use marijuana to be paid by cultivation facilities on adult use marijuana sold to other licensees. The excise tax is imposed in the following amounts:
- A. For marijuana flower or mature marijuana plants, \$335 per pound;
- B. For marijuana trim, \$94 per pound;
- C. For each immature marijuana plant or seedling, \$1.50; and
- D. For each marijuana seed, \$0.30.

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23. It establishes the Adult Use Marijuana Public Health and Safety Fund, which is primarily funded through dedicated excise and sales tax revenue from the sale of adult use marijuana and adult use marijuana products, to be used by the department to facilitate public health and safety awareness and education programs, initiatives, campaigns and activities and enhanced law enforcement training programs for local, county and state law enforcement officers. 24. It eliminates the Retail Marijuana Regulatory Coordination Fund, which was created and funded through the enactment of Public Law 2017, chapter 278, and transfers its remaining balances to the new Adult Use Marijuana Regulatory Coordination Fund.

25. It affects the provisions of the former Act relating to the personal use of marijuana and marijuana products and the home cultivation of marijuana for personal adult use by:

A. Retaining the provisions of the former Act authorizing a person 21 years of age or older to purchase from a marijuana store and possess for personal use up to 2 1/2 ounces of marijuana or 2 1/2 ounces of a combination of marijuana and marijuana concentrate that includes no more than five grams of marijuana concentrate;

B. Clarifying language regarding the transfer or furnishing of marijuana or marijuana products, without remuneration, to another person to specify that remuneration includes a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which marijuana or marijuana products are transferred or furnished by that person to another person;

C. Authorizing a person 21 years of age or older to purchase up to 12 immature marijuana plants or seedlings from a marijuana store or a nursery cultivation facility;

D. Clarifying the provisions relating to the home cultivation of marijuana for personal adult use by reducing the number of mature marijuana plants that may be possessed, cultivated or transported by a person 21 years of age or older from six plants to three plants. It authorizes a municipality to adopt an ordinance or other regulation limiting the total number of mature marijuana plants that may be cultivated on any one parcel or tract of land within the municipality, so long as that ordinance or regulation allows for the cultivation of three mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on a parcel or tract of land. It also includes language providing that this reduction in the number of authorized mature marijuana plants from six plants to three plants does not take effect until six months after the effective date of the law.

E. Retaining the provisions relating to the consumption of marijuana and marijuana products as enacted by Public Law 2017, chapter 1; and

F. Prohibiting the home extraction of marijuana concentrate by use of inherently hazardous substances.

Public Law 2017, chapter 409 also amends the Maine Criminal Code to include provisions that address a statutory conflict between Maine Criminal Code provisions prohibiting the possession and cultivation of marijuana and marijuana plants and provisions of the Act authorizing such possession and cultivation of marijuana and marijuana plants. These amendments to the Maine Criminal Code are consistent with current exemptions in the Maine Criminal Code relating to conduct authorized under the Maine Medical Use of Marijuana Act. It also provides an exemption from the laws concerning criminal asset forfeiture relating to conduct authorized under the Act and amends the law concerning the Department of Public Safety, Bureau of State Police, State Bureau of Identification as necessary for the State Police and the State Bureau of Identification to conduct criminal history record checks on

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applicants for a license to operate an adult use marijuana establishment and on other persons as required under the Act.

Public Law 2017, chapter 409 also amends the State's laws governing municipal powers and duties to provide that plantations have the same powers and duties as cities and towns under the Act. Public Law 2017, chapter 409 also amends the tax laws as follows.

1. It provides for a 10% sales tax on adult use marijuana and adult use marijuana products to be imposed at the point of final sale to a consumer by a marijuana store.
2. It stipulates that all the revenue resulting from the imposition of the sales tax on adult use marijuana and adult use marijuana products must be deposited into the General Fund, except that 12% of the total monthly tax revenue must be transferred to the Adult Use Marijuana Public Health and Safety Fund.

Public Law 2017, chapter 409 also shifts the administration and enforcement of the Maine Medical Use of Marijuana Act and the medical marijuana program adopted thereunder from the Department of Health and Human Services to the department, including:

1. Restricting the department from assigning the administration and enforcement of the Maine Medical Use of Marijuana Act to any bureau or division within the department responsible for the administration and enforcement of the laws governing the manufacture, sale and distribution of liquor;
2. Requiring the department to consult with the Department of Health and Human Services prior to the adoption or amendment of rules under the Maine Medical Use of Marijuana Act;
3. Directing the transfer of the balance of the Medical Use of Marijuana Fund in the Department of Health and Human Services to the Medical Use of Marijuana Fund in the department;
4. Including a number of additional provisions to facilitate the transition of the administration and enforcement of the Maine Medical Use of Marijuana Act from the Department of Health and Human Services to the department. It requires the Commissioner of Administrative and Financial Services to submit a report on or before January 31, 2019 to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the status of this transition and authorizes the joint standing committee to report out legislation relating to the report;
5. Amending the State Government Evaluation Act to provide that the review of the bureau or division within the department that administers and enforces the Maine Medical Use of Marijuana Act remain with the joint standing committee of the Legislature having jurisdiction over health and human services matters; and
6. Amending the Maine Medical Use of Marijuana Act to direct that the registry identification cards annual report specifically be submitted to the joint standing committee of the Legislature having jurisdiction over health and human services matters.

Public Law 2017, chapter 409 was enacted as an emergency measure effective May 2, 2018.

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LD 2099, An Act To Amend Provisions of the Maine Medical Use of Marijuana Act (HHS Committee, ONTP - 129th 2S)

Summary

This bill would have made the following changes to the Maine Medical Use of Marijuana Act.

1. It adds definitions of "batch" and "batch number." It also adds to the definition of "inherently hazardous substance" alcohol and ethanol and amends the definition of "cultivation area" to require such an area to be obscured from public viewing by a person under 21 years of age. It changes the definitions of "seedling" and "immature marijuana plant." It changes the definition of "registered caregiver" to specify that it means a natural person who is a caregiver.

2. It aligns the labeling requirements of the Maine Medical Use of Marijuana Act with the labeling requirements of the Marijuana Legalization Act and provides more specific guidance regarding required labeling.

It requires local authorization for caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities operating in towns, plantations and townships in the unorganized and deorganized areas, in addition to local authorization by municipalities already required by law.

3. It authorizes the Department of Administrative and Financial Services to impose upon registered caregivers, caregiver retail stores, dispensaries, manufacturing facilities and persons authorized to engage in marijuana extraction using inherently hazardous substances fines for violations of the Maine Medical Use of Marijuana Act and rules adopted pursuant to the Act. It also establishes maximum allowable fines for minor and major registration violations, including major registration violations affecting public safety.

4. It requires all registered caregivers and assistants of registered caregivers and officers, directors and assistants of registered dispensaries, registered manufacturing facilities, persons authorized to engage in marijuana extraction using inherently hazardous substances and marijuana testing facilities to submit to an annual state and federal criminal history record check in order for the department to issue or renew a registry identification card.

5. It authorizes the department to assess a fee for caregivers registering with the department based upon plant canopy and amends the statutory fee schedule to clarify that caregivers may register based upon plant count or plant canopy. It requires a caregiver to obtain a registration certificate to operate a caregiver retail store and provides that the annual registration fee for a caregiver retail store may not be less than \$50 or more than \$500. It requires a caregiver to notify the department of the physical address of a caregiver retail store. It allows a caregiver to organize the caregiver's business activities as any type of legal business entity recognized under the laws of the State.