

Testimony In Opposition to L.D. 1672

An Act to Allow Participation in the Adult Use Cannabis Tracking System to Be Voluntary

Before the Joint Standing Committee on Veterans and Legal Affairs

May 5, 2025

Senator Hickman, Representative Supica, and members of the Joint Standing Committee on Veterans and Legal Affairs:

My name is Hannah King. I am a partner in Dentons Cannabis Practice Law Group. I have practiced cannabis law for a decade in Maine and across the country. I have done work on cannabis legislation in Maine since 2016 and now work on cannabis legislation in states across the country. I am here on behalf of Cannabis Association of Maine (CannabisME) to speak in opposition to L.D. 1672.

In particular, I want to focus on the impact of preventing the Department of Administrative and Financial Services from implementing a centralized, mandatory electronic tracking system for the adult use program. These changes are likely to have significant unintended consequences that will harm adult use cannabis businesses, including small craft cannabis businesses.

Since the program's inception, adult use cannabis companies have tracked their inventory from seed to sale using an electric third-party tracking system. This is recognized nation-wide as best practices for regulating cannabis. Only three out of 41 cannabis markets in the country either do not have electronic seed to sale tracking (Maine's medical program) or have a state run manual reporting system (Vermont and Washington State). Notably, an recent audit completed in Washington State found that the state run tracking, similar to the one proposed in L.D. 1672, took significantly longer to develop than anticipated (12 years) and is less efficient, less effective, and less accurate than the third party electronic seed to sale tracking programs used by most states. Specifically, the audit found that the program does not provide real time regulators to regulator, is vulnerable to human error, and is easily manipulated. It also requires operators to collect and then separately upload data, a redundant and inefficient process.

It is important to recognize that while legalization of adult use cannabis has gained acceptance over the years, it remains a Schedule I controlled substance under federal law. A measure to significantly decrease regulatory requirements for cannabis businesses and strip the regulators of their ability to effectively enforce the rules or engage in future rulemaking would make Maine an outlier among other states that have legalized cannabis. This will have significant long term impacts as well as short term impacts, as discussed below.

First, allowing participation in the Adult Use cannabis tracking system to be voluntary will adversely impact cannabis businesses' access to banking services. Professional service providers such as financial institutions and insurance providers and their own regulators rely on robust seed to sale tracking to provide assurance that illicit product is not being diverted into or out of the legal markets and that businesses are not using state legal programs to launder money.

Modifying this fundamental regulatory tool to a significantly less effective version, is likely to put access to critical professional services at risk. Over the past several years the number of institutions in Maine willing to bank with adult use cannabis businesses and the scope of financial service they have been willing to have provided, which now include lending to adult use cannabis businesses and their employees, has expanded significantly. Eliminating seed to sale tracking could force financial institutions to stop working with cannabis businesses in the state. With nowhere to deposit money, cannabis businesses will become targets for violent crime and will be forced to pay employees, vendors and service providers with cash.

Second, it will have an adverse financial impact on state registered cannabis businesses. Failing to implement an electronic tracking system makes it easy for illegally produced cannabis to funnel into the legal market. This means that cannabis cultivators—the Maine farmers you are trying to protect—are forced to compete against cannabis produced on the illicit market. A flooded market means rock bottom wholesale prices. We are already seeing cannabis businesses, which do not have access to bankruptcy protections, fail because they cannot compete with mass produced illicit cannabis flooding in from Massachusetts and California. Robust seed to sale tracking protects against the diversion of illegal product into the adult use market. This market, which has sales of over two hundred million dollars last year and is continuing to see exponential growth, is an attractive market. Unlike other markets, such as apples and alcohol, there is substantial illicit market that is pervasive in the state and around the country. Without adequate seed to sale tracking illicit operators can sell their products into the adult use market forcing state legal businesses to directly compete with them and risking market destabilization.

Third, the removal of the mandatory electronic tracking system increases the risk of state legal businesses becoming unknowingly involved in illegal activity. This will have a chilling effect on legal businesses and ancillary services entering or continuing to participate in the market. If a business cannot verify that what they are purchasing came from the legal market, they could get caught up in a federal investigation despite making every effort to make sure their own practices were in full compliance with state law. The illicit market is exploiting the lack of regulation in Maine. Without tracking, cannabis is fungible. This makes Maine's cannabis market an ideal for illegal operators to "wash" or launder illicitly produced marijuana. Once a licensee comes into possession of illicitly produced marijuana, it essentially becomes "legal" because there is no system for tracking where it came from. All it takes is one or two bad apples to flood the cannabis market with illicitly produced product. Failing to put regulatory protections in place to prevent illicit cannabis from flowing into and out of the program puts Maine cannabis businesses, including the financial institutions and other professional services businesses that serve them, at significant risk.

The impacts of eliminating tracking and testing requirements cannot be overstated. They include the risk that cannabis businesses lose access to important professional services and that illicit operators have access to the market. Allowing voluntary tracking does not provide the same protections to the industry or consumers that are afforded by a robust seed to sale tracking and testing program.

I hope you will think carefully about potential unintended consequences of this legislation. We have already seen the negative impact on businesses from lack of regulation and inventory

tracking. Prohibiting the implementation of seed to sale tracking will not protect this industry, and I urge you not to support this bill.

Thank you for your consideration.



Office of the Washington State Auditor

State's cannabis tracking system falls short of long-sought goals, audit finds

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Oct 22, 2024

More than a decade after voters approved legalizing recreational marijuana in Washington, the state still lacks a system able to track cannabis from production through processing to retail sale, according to a follow-up performance audit released today by the Office of the Washington State Auditor.

In 2018, a performance audit found the state Liquor and Cannabis Board (LCB) was implementing a computerized tracking system sophisticated enough to highlight risk areas for further investigation by enforcement officers. For example, such a system could flag for review excessive donations to medical cannabis providers or patients.

Today, several other states operate such full service, “seed-to-sale” tracking systems to help them identify risks of illegal or unsafe practices. However, when auditors followed up on earlier recommendations to LCB, they found its project had failed. Among other challenges, the tracking system project was overseen by three different sponsors and three different deputy directors in three years. By 2021, agency executives decided to cancel the project altogether and instead repurposed an existing data backup system for tracking purposes.

The Cannabis Central Reporting System now in place allows LCB to produce reports on key data from cannabis business licensees, but it has significant limitations. For example, it cannot provide enforcement officers with real-time tracking information.

Auditors also found the current system is vulnerable to errors, such as misplaced decimals in the reported sales price of individual products. These contributed to the system reporting annual sales of almost \$8 billion in 2022. The Department of Revenue estimated sales for the same period to be about \$1.3 billion. In another example, the system will alert licensed cannabis businesses if there is an error in uploading their data. However, licensees cannot view their data in the system and must ask LCB for a copy to confirm they have submitted the correct information.

LCB is focused on replacing other aging information technology systems, and management does not expect to be able to launch a more robust tracking system until 2031.

“A ‘seed-to-sale’ tracking system has been under development for 12 years but has yet to be fully realized,” said State Auditor Pat McCarthy. “This report is an important update for state leaders, who can now engage with the Liquor and Cannabis Board to establish clear goals for ensuring accountability in our modern recreational cannabis system.”

The full performance audit report, including recommendations to LCB to improve the use of its existing system, can be found on the State Auditor's Office website here: [Evaluating Oversight of the Cannabis Industry: Follow-up issues](#).

Media questions: Assistant Director of Communications Adam Wilson, Adam.Wilson@sao.wa.gov, 564-999-0799

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Neither for Nor Against LD 1529

An Act to Reform the State's Adult Use Cannabis Seed-to-sale Tracking System to Allow for Canopy Tagging

Committee on Veterans and Legal Affairs

April 19, 2023

Senator Hickman, Representative Supica, and Distinguished Members of the Joint Committee on Veterans and Legal Affairs,

My name is Krista Simonis and I am the Director of Governmental Affairs at the Maine Credit Union League. The Maine Credit Union League is the trade association for Maine's 50 credit unions and over 725,000 members statewide. We respectfully submit the following testimony neither for nor against LD 1529.

Since 2014, a small number of our credit unions have been providing financial services to members of the cannabis industry. Doing so comes with corresponding risks and required regulations. Credit unions must comply with the guidance set forth by the Federal Financial Crimes Enforcement Network (FinCEN) and are subject to regular examinations to by the National Credit Union Administration (NCUA) to ensure that they are following that guidance. Part of these requirements are that cannabis companies engage in tracking to prevent money laundering and ensure funds and product are not being diverted for illegal activity.

The 2014 FinCEN guidance¹ on providing financial services to cannabis related businesses cites seven requirements for financial institutions serving these businesses, these requirements include:

- (i) verifying with the appropriate state authorities whether the business is duly licensed and registered;
- (ii) reviewing the license application (and related documentation) submitted by the business for obtaining a state license to operate its marijuana-related business;
- (iii) requesting from state licensing and enforcement authorities available information about the business and related parties;
- (iv) developing an understanding of the normal and expected activity for the business, including the types of products to be sold and the type of customers to be served (e.g., medical versus recreational customers);

¹ BSA Expectations Regarding Marijuana-Related Businesses | FinCEN <https://www.fincen.gov/resources/statutes-regulations/guidance/bsa-expectations-regarding-marijuana-related-businesses>

- (v) ongoing monitoring of publicly available sources for adverse information about the business and related parties;
- (vi) ongoing monitoring for suspicious activity, including for any of the red flags described in this guidance; and
- (vii) refreshing information obtained as part of customer due diligence on a periodic basis and commensurate with the risk.

Requirement (iv) requires businesses to keep track of the normal and expected activity. According to federal regulators, this includes the tracking and tagging of plants. By allowing the use of canopy tagging, our concern is that LD 1529 would once again loosen the requirements for cannabis companies to maintain compliance with state law. Any proposed change that would widen the gap between what is accepted by federal guidance and what is required at the state increases the challenge in providing cannabis banking in Maine. Currently cannabis businesses need to decipher the differing regulations between what is required by the state and what is required to access banking services. As much as possible, we would urge the committee to create parity between these regulatory requirements. Doing so will increase access and availability to banking service for cannabis businesses.

Credit unions exist to serve their communities. We want to make sure that the cannabis industry in Maine has a safe way to bank their cash and receive financial services. Large amounts of cash can pose dangers to businesses and community members alike. Tracking is a key component in offering financial services to both Adult-Use and Medical Cannabis. We would caution this committee to be judicious in any change in the tagging and tracking requirements.

The League would like to thank the committee for the opportunity to share our viewpoints. We are ready to assist the committee further if called upon.