

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 929

H.P. 678

House of Representatives, March 21, 1995

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### **An Act to Legalize the Use of Marijuana for Medical Purposes.**

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Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative ROTONDI of Madison.  
Cosponsored by Representatives: ADAMS of Portland, BRENNAN of Portland,  
FITZPATRICK of Durham, HEESCHEN of Wilton, JONES of Bar Harbor, MITCHELL of  
Vassalboro, Senators: CLEVELAND of Androscoggin, O'DEA of Penobscot.

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 15 MRSA §5826 is enacted to read:

6 **§5826. Property not subject to forfeiture based on medicinal purposes**

8 Property is not subject to forfeiture under this chapter in the following situations.

10 **1. Possession of marijuana for medicinal purposes.** If the alleged violation that subjects the person's property to forfeiture is possession of marijuana under Title 22, section 2383, the person possessed the marijuana for the person's own use and the amount of marijuana possessed is 1 1/4 ounces or less, that property is not subject to forfeiture if the marijuana was prescribed by a practitioner approved by the Board of Licensure in Medicine and:

20 A. The person possessed the marijuana for the purpose of alleviating nausea or vomiting as a result of chemotherapy or radiation therapy for treatment of cancer; or

24 B. The person was diagnosed by a physician before the alleged violation as having Acquired Immune Deficiency Syndrome.

28 Sec. 2. 22 MRSA §2383, sub-§§3 to 6 are enacted to read:

30 **3. Marijuana for medicinal purposes.** It is an affirmative defense to an adjudication for possession of marijuana under this section that the person possessed the marijuana for the person's own use, the amount of marijuana possessed is 1 1/4 ounces or less, the marijuana was prescribed by a practitioner approved by the Board of Licensure in Medicine and:

38 A. The person possessed the marijuana for the purpose of alleviating nausea or vomiting as a result of chemotherapy or radiation therapy for treatment of cancer; or

42 B. The person was diagnosed by a physician before the alleged violation as having Acquired Immune Deficiency Syndrome.

44 **4. Juveniles.** It is an affirmative defense to an adjudication of a juvenile under Title 15, section 3103, subsection 1, paragraph B that the juvenile possessed 1 1/4

2 ounces or less of marijuana, the juvenile possessed the marijuana  
3 for the juvenile's own use, the juvenile's parent or other person  
4 authorized to make medical decisions for the juvenile authorized  
5 the possession and use, the marijuana was prescribed by a  
6 practitioner approved by the Board of Licensure in Medicine and:

7 A. The juvenile possessed the marijuana for the purpose of  
8 alleviating nausea or vomiting as a result of chemotherapy  
9 or radiation therapy for treatment of cancer; or

10 B. The juvenile was diagnosed by a physician before the  
11 alleged violation as having Acquired Immune Deficiency  
12 Syndrome.

13 **5. Expressly authorized possession, prescription and**  
14 **distribution.** A practitioner approved by the Board of Licensure  
15 in Medicine is expressly authorized to prescribe marijuana under  
16 this section. A patient for whom marijuana has been prescribed  
17 by a practitioner approved by the board is expressly authorized  
18 to possess marijuana in accordance with this section.

19 **6. Burden of proof.** The affirmative defense provided by  
20 subsections 3 and 4 must be proved by the defendant by a  
21 preponderance of the evidence.

22 **7. Location.** Notwithstanding the affirmative defense  
23 provided by subsections 3 and 4, smoking marijuana under  
24 circumstances where smoking tobacco would be prohibited under  
25 chapter 262 or 263 is subject to the same penalties provided by  
26 those chapters for smoking tobacco under the same circumstances.

## 27 **STATEMENT OF FACT**

28 This bill limits the amount of marijuana that may be  
29 possessed and clarifies and expands the purposes for which it may  
30 be possessed. The bill also clarifies the burden of proof of the  
31 affirmative defense and provides that smoking marijuana is  
32 prohibited under the same circumstances as smoking tobacco. This  
33 bill does not affect prosecutions for the trafficking or  
34 furnishing of marijuana. The bill also requires that the  
35 marijuana must be prescribed by a physician.