

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1059

S.P. 319

In Senate, February 13, 1997

An Act to Establish the Maine Compassionate Use Act.

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator RAND of Cumberland.
Cosponsored by Senator PENDLETON of Cumberland, Representatives: BRENNAN of
Portland, LEMAIRE of Lewiston, MUSE of South Portland, QUINT of Portland, SAXL of
Portland, STEVENS of Orono, WATSON of Farmingdale.

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

2
4 **Sec. 1. 15 MRSA §5821, first ¶**, as enacted by PL 1987, c. 420,
§2, is amended to read:

6 The ~~Except~~ as provided in section 5821-A, the following
shall ~~be~~ is subject to forfeiture to the State and no property
8 right may exist in them:

10 **Sec. 2. 15 MRSA §5821-A** is enacted to read:

12 **§5821-A. Property not subject to forfeiture based on medicinal**
14 **purposes**

16 Beginning November 1, 1997, property is not subject to
forfeiture under this chapter if the alleged violation that
subjects the person's property to forfeiture is possession or
18 cultivation of marijuana under section 3103, subsection 1,
paragraph B or Title 22, section 2383, if:

20 **1. Other evidence.** There is no other evidence that the
22 person possessed or cultivated marijuana with the intent to
furnish or traffick;

24 **2. Limitation on amount.** The amount of marijuana
26 cultivated or possessed by the person is limited to 4 ounces of
usable marijuana and a total of 15 growing plants, of which no
28 more than 6 may be mature plants;

30 **3. Personal use.** The person possessed or cultivated the
32 marijuana for the person's own use and did not use it in public;

34 **4. Medicinal purposes; medical recommendation.** The person
possessed or cultivated the marijuana for the purpose of
alleviating negative medical symptoms after receiving the written
36 recommendation of a diagnosing and treating physician licensed in
this State; and

38 **5. Notice to law enforcement.** Before forfeiture of the
40 marijuana, the person provided a copy of the recommendation of a
physician licensed in this State to local and county law
42 enforcement agencies and the State Police.

44 If the person who possessed or cultivated marijuana is a
minor these requirements apply: a physician licensed in this
46 State must have counseled the person on the possible risks and
benefits of marijuana use and have notified the parent, legal
48 guardian or legal custodian of the person of the recommendation
and the parent, legal guardian or legal custodian must have
50 signed a written consent to the use of the drug.

2 **Sec. 3. 22 MRSA §2383, sub-§§3 and 4** are enacted to read:

4 3. Marijuana for medicinal purposes. Beginning November 1,
6 1997, medicinal use of marijuana is an affirmative defense to a
8 charge of possession or cultivation of marijuana under this
section or under Title 15, section 3103, subsection 1, paragraph
B, if:

10 A. There is no other evidence that the person possessed or
12 cultivated marijuana with the intent to furnish or traffick;

14 B. The amount of marijuana cultivated or possessed by the
16 person is limited to 4 ounces of usable marijuana and a
total of 15 growing plants, of which no more than 6 may be
mature plants;

18 C. The person possessed or cultivated the marijuana for the
20 person's own use and did not use it in public;

22 D. The person possessed or cultivated the marijuana for the
24 purpose of alleviating negative medical symptoms after
receiving the written recommendation of a physician licensed
in this State;

26 E. Before seizure of the marijuana, the person provided a
28 copy of the written recommendation of a physician licnesed
in this State to local and county law enforcement agencies
and the State Police; and

30 F. Within 15 days of the commencement of a proceeding
32 brought under Title 15, section 3103, subsection 1,
34 paragraph B or Title 22, section 2383, the person charged
or, if that person is a minor, the minor's parent, legal
36 guardian or legal custodian, files in court and serves on
the prosecuting authorities a sworn statement of affirmative
38 defense that the person meets the requirements of paragraphs
A to F, naming the person's diagnosing and treating
40 physician and waiving the physician-patient privilege for
the purpose of allowing the prosecuting authority to confirm
42 with the physician's written recommendation to use
marijuana.

44 If the person who possessed or cultivated marijuana is a minor
46 these requirements apply: a physician licensed in this State must
have counseled the person on the possible risks and benefits of
48 marijuana use and have notified the parent, legal guardian or
legal custodian of the person of the recommendation and the
50 parent, legal guardian or legal custodian must have signed a
written consent to the use of the drug.

