

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1229

H.P. 868

House of Representatives, March 26, 2013

An Act To Regulate and Tax Marijuana

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RUSSELL of Portland.
Cosponsored by Senator VALENTINO of York and
Representatives: BEAR of the Houlton Band of Maliseet Indians, BEAVERS of South
Berwick, BECK of Waterville, BOLDUC of Auburn, CHAPMAN of Brooksville, CHIPMAN
of Portland, DICKERSON of Rockland, DUNPHY of Embden, FARNSWORTH of Portland,
HAMANN of South Portland, HARLOW of Portland, HARVELL of Farmington, HAYES of
Buckfield, HICKMAN of Winthrop, JORGENSEN of Portland, KRUGER of Thomaston,
LAJOIE of Lewiston, LIBBY of Waterboro, LIBBY of Lewiston, MacDONALD of Boothbay,
MITCHELL of the Penobscot Nation, MONAGHAN-DERRIG of Cape Elizabeth, MOONEN
of Portland, MORRISON of South Portland, NOON of Sanford, PEOPLES of Westbrook,
POWERS of Naples, RYKERSON of Kittery, STANLEY of Medway, STUCKEY of Portland,
WELSH of Rockport, WOOD of Sabattus, Senators: GERZOFKY of Cumberland,
MAZUREK of Knox.

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

2 **PART A**

3 **Sec. A-1. 36 MRSA c. 723** is enacted to read:

4 **CHAPTER 723**

5 **MARIJUANA TAX**

6 **§4921. Definitions**

7 As used in this chapter, unless the context otherwise indicates, the following terms
8 have the following meanings.

9 **1. Marijuana.** "Marijuana" means all parts of the plant of the genus cannabis
10 whether growing or not, the seeds thereof, the resin extracted from any part of the plant
11 and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its
12 seeds or its resin including marijuana concentrate. "Marijuana" does not include industrial
13 hemp, fiber produced from the stalks, oil, cake made from the seeds of the plant,
14 sterilized seed of the plant that is incapable of germination or the weight of any ingredient
15 combined with marijuana to prepare topical or oral administrations, food, drink or any
16 other product.

17 **2. Marijuana cultivation facility.** "Marijuana cultivation facility" means an entity
18 licensed to cultivate, prepare and package marijuana and sell marijuana to retail
19 marijuana stores, to marijuana product manufacturing facilities and to other marijuana
20 cultivation facilities, but not to consumers.

21 **3. Marijuana establishment.** "Marijuana establishment" means a marijuana
22 cultivation facility, marijuana testing facility, marijuana product manufacturing facility or
23 retail marijuana store.

24 **4. Marijuana product manufacturing facility.** "Marijuana product manufacturing
25 facility" means an entity licensed to:

26 A. Purchase marijuana;

27 B. Manufacture, prepare and package marijuana products; or

28 C. Sell marijuana and marijuana products to other marijuana product manufacturing
29 facilities and to retail marijuana stores, but not to consumers.

30 **5. Marijuana products.** "Marijuana products" means concentrated marijuana and
31 products that consist of marijuana and other ingredients and are intended for use or
32 consumption, including, but not limited to, edible products, ointments and tinctures.

33 **6. Marijuana testing facility.** "Marijuana testing facility" means an entity licensed
34 to analyze and certify the safety and potency of marijuana.

1 **7. Retail marijuana store.** "Retail marijuana store" means an entity licensed to
2 purchase marijuana from a marijuana cultivation facility and marijuana and marijuana
3 products from a marijuana product manufacturing facility and to sell marijuana and
4 marijuana products to consumers.

5 **§4922. Excise tax on marijuana**

6 **1. Rate of excise tax.** An excise tax is imposed on the sale or transfer of marijuana
7 from a marijuana cultivation facility to a retail marijuana store or marijuana product
8 manufacturing facility. Each marijuana cultivation facility shall pay an excise tax at the
9 rate of \$50 per ounce, or proportionate part thereof, on marijuana that is sold or
10 transferred from a marijuana cultivation facility pursuant to Title 22, chapter 558-D.

11 **2. Adjustment for inflation.** The excise tax rate under subsection 1 must be
12 adjusted annually for inflation pursuant to this subsection.

13 A. Beginning in 2015, on or about February 15th of each year, the State Tax
14 Assessor shall calculate the adjusted excise tax rates by multiplying the rates in effect
15 on the calculation date by an inflation index computed as provided in paragraph B.
16 The adjusted rates must then be rounded to the nearest penny and become effective
17 on the first day of July immediately following the calculation. The assessor shall
18 publish the annually adjusted excise tax rates and shall provide all necessary forms
19 and reports.

20 B. The inflation index is the Consumer Price Index as defined in section 5402,
21 subsection 1 for the calendar year ending on the December 31st immediately
22 preceding the calculation date, divided by the Consumer Price Index for the prior
23 calendar year. The inflation index may not be less than one.

24 **3. Returns; payment of tax; penalty.** A marijuana cultivation facility subject to the
25 licensing requirement of Title 22, section 2430-K shall file, on or before the last day of
26 each month, a return on a form prescribed and furnished by the assessor together with
27 payment of the tax due under this chapter. The return must report all marijuana products
28 held, purchased, manufactured, brought in or caused to be brought in from outside the
29 State or shipped or transported to a retail marijuana store or marijuana product
30 manufacturing facility within the State during the preceding calendar month. A
31 marijuana cultivation facility shall keep a complete and accurate record at its principal
32 place of business to substantiate all receipts and sales of marijuana products.

33 The return must include further information as the assessor may prescribe and must show
34 a credit for any marijuana products exempted as provided in subsection 5. Records must
35 be maintained to substantiate the exemption. Tax previously paid on marijuana products
36 that are returned to a marijuana establishment because the product has become unfit for
37 use, sale or consumption and for marijuana products that are returned to a marijuana
38 cultivation facility that are subsequently destroyed by the marijuana cultivation facility
39 may be taken as a credit on a subsequent return. The assessor may either witness the
40 destruction of the product or may accept another form of proof that the product has been
41 destroyed by the marijuana cultivation facility.

1 A person who is not a marijuana cultivation facility licensed pursuant to Title 22, section
2 2430-K who imports, receives or otherwise acquires marijuana products for use or
3 consumption in the State from a person other than a licensed marijuana cultivation
4 facility shall file, on or before the last day of the month following each month in which
5 marijuana products were acquired, a return on a form prescribed by the assessor together
6 with payment of the tax imposed by this chapter at the rate provided in subsection 1. The
7 return must report the quantity of marijuana products imported, received or otherwise
8 acquired from a person other than a licensed marijuana cultivation facility during the
9 previous calendar month and additional information the assessor may require.

10 **4. Failure to make payments.** If a marijuana cultivation facility fails to make tax
11 payments as required by this section, the Department of Administrative and Financial
12 Services, Bureau of Marijuana Regulation, Licensing and Enforcement may revoke the
13 marijuana cultivation facility's license.

14 **5. Exemption.** The tax on marijuana imposed pursuant to this section may not be
15 levied on marijuana sold by nonprofit dispensaries to qualifying patients and primary
16 caregivers pursuant to Title 22, chapter 558-C.

17 **§4923. Application of revenues**

18 Revenues derived from the tax imposed by this chapter must be credited to a General
19 Fund suspense account. On or before the last day of each month, the State Controller
20 shall transfer 10% of the revenues received by the assessor during the preceding month
21 pursuant to the tax imposed by section 4922 to the Marijuana Regulation and Licensing
22 Fund established under Title 22, section 2430-M. Until January 1, 2022, on or before the
23 last day of each month, the State Controller shall transfer 5% of the revenues received by
24 the assessor during the preceding month pursuant to the tax imposed by section 4922 to
25 the Marijuana Research Fund established under Title 22, section 2430-Q. On or before
26 the last day of each month, the State Controller shall transfer the remainder of the
27 revenues to the General Fund.

28 **§4924. Annual report**

29 The bureau shall report annually beginning January 30, 2015 the amount of tax
30 revenue collected pursuant to section 4922 and the amount distributed to each fund
31 pursuant to section 4923 to the joint standing committee of the Legislature having
32 jurisdiction over appropriations and financial affairs and the joint standing committee of
33 the Legislature having jurisdiction over taxation matters.

34 **Sec. A-2. Review and report recommendations.** The Department of
35 Administrative and Financial Services, Bureau of Revenue Services shall review methods
36 for ensuring that all marijuana that is sold in the State is assessed, except marijuana that is
37 exempt pursuant to the Maine Revised Statutes, Title 36, section 4922, subsection 5. The
38 bureau shall report its findings and recommendations, including any necessary legislation,
39 to the Joint Standing Committee on Taxation by February 15, 2014. The Joint Standing
40 Committee on Taxation is authorized to submit a bill to the Second Regular Session of
41 the 126th Legislature based on the subject matter of the report.

1 **PART B**

2 **Sec. B-1. 22 MRSA §2383, sub-§1**, as repealed and replaced by PL 2009, c. 652,
3 Pt. B, §6, is amended to read:

4 **1. Marijuana.** Except as provided in chapter 558-C, a person under 21 years of age
5 may not possess marijuana.

6 A. A person under 21 years of age who possesses a usable amount of marijuana
7 commits a civil violation for which a fine of not less than \$350 and not more than
8 \$600 must be adjudged for possession of up to 1 1/4 ounces of marijuana and a fine
9 of not less than \$700 and not more than \$1,000 must be adjudged for possession of
10 over 1 1/4 ounces to 2 1/2 ounces of marijuana, none of which may be suspended.

11 **Sec. B-2. 22 MRSA §2383-D** is enacted to read:

12 **§2383-D. False identification**

13 As used in this section, "minor" means a person who is under 21 years of age.

14 **1. False identification.** A minor may not present or offer to a marijuana
15 establishment, as defined in section 2340-F, subsection 10, or the marijuana
16 establishment's agent or employee any written or oral evidence of age that is false,
17 fraudulent or not actually the minor's own for the purpose of:

18 A. Ordering, purchasing, attempting to purchase or otherwise procuring or
19 attempting to procure marijuana; or

20 B. Gaining access to marijuana.

21 **2. Penalties.** Penalties for a violation of subsection 1 are determined according to
22 this subsection.

23 A. Monetary penalties are as follows.

24 (1) A minor who violates subsection 1 commits a civil violation for which a fine
25 of not less than \$200 and not more than \$400 must be adjudged.

26 (2) A minor who violates subsection 1 after having previously violated
27 subsection 1 commits a civil violation for which a fine of not less than \$300 and
28 not more than \$600 must be adjudged, none of which may be suspended except
29 as provided in paragraph B.

30 (3) A minor who violates subsection 1 after having previously violated
31 subsection 1 2 or more times commits a civil violation for which a fine of \$600
32 must be adjudged, none of which may be suspended except as provided in
33 paragraph B.

34 When a minor is adjudged to have committed a first offense under subsection 1, the
35 judge shall inform that minor that the fines for the 2nd and subsequent offenses are
36 mandatory and cannot be suspended except as provided in paragraph B. Failure to
37 inform the minor that subsequent fines are mandatory is not a ground for suspension
38 of any subsequent fine.

1 converting, producing, processing, preparing, testing, analyzing, packaging, repackaging,
2 storing, vaporizing or containing marijuana or for ingesting, inhaling or otherwise
3 introducing marijuana into the human body.

4 **8. Marijuana cultivation facility.** "Marijuana cultivation facility" means an entity
5 licensed to cultivate, prepare and package marijuana and sell marijuana to retail
6 marijuana stores, to marijuana product manufacturing facilities and to other marijuana
7 cultivation facilities, but not to consumers.

8 **9. Marijuana establishment.** "Marijuana establishment" means a marijuana
9 cultivation facility, marijuana testing facility, marijuana product manufacturing facility or
10 retail marijuana store.

11 **10. Marijuana product manufacturing facility.** "Marijuana product
12 manufacturing facility" means an entity licensed to:

13 A. Purchase marijuana;

14 B. Manufacture, prepare and package marijuana products; or

15 C. Sell marijuana and marijuana products to other marijuana product manufacturing
16 facilities and to retail marijuana stores, but not to consumers.

17 **11. Marijuana products.** "Marijuana products" means concentrated marijuana and
18 products that consist of marijuana and other ingredients and are intended for use or
19 consumption, including, but not limited to, edible products, ointments and tinctures.

20 **12. Marijuana testing facility.** "Marijuana testing facility" means an entity licensed
21 to analyze and certify the safety and potency of marijuana.

22 **13. Minor.** "Minor" means a person under 21 years of age.

23 **14. Retail marijuana store.** "Retail marijuana store" means an entity licensed to
24 purchase marijuana from a marijuana cultivation facility and marijuana and marijuana
25 products from a marijuana product manufacturing facility and to sell marijuana and
26 marijuana products to consumers.

27 **15. Seedling.** "Seedling" means a marijuana plant that has no flowers, is less than 12
28 inches in height and is less than 12 inches in diameter.

29 **§2430-G. Exemption from criminal and civil penalties, seizure or forfeiture**

30 Notwithstanding Title 17-A, chapter 45 or any other provision of law to the contrary
31 and except as provided in this chapter, the actions specified in this chapter are legal under
32 the laws of this State and do not constitute a civil or criminal offense under the laws of
33 this State or the law of any political subdivision within this State or serve as a basis for
34 seizure or forfeiture of assets under state law.

35 **§2430-H. Personal use of marijuana**

36 **1. Personal use of marijuana.** A person who is 21 years of age or older may:

1 A. Use, possess or transport marijuana accessories and up to 2 1/2 ounces of
2 marijuana;

3 B. Transfer or furnish, without remuneration, up to 2 1/2 ounces of marijuana and up
4 to 6 marijuana seedlings to a person who is 21 years of age or older;

5 C. Possess, grow, cultivate, process or transport up to 6 marijuana plants, including
6 seedlings, and possess the marijuana produced by the marijuana plants on the
7 premises where the plants were grown; and

8 D. Purchase up to 2 1/2 ounces of marijuana, up to 6 marijuana seedlings and
9 marijuana accessories from a retail marijuana store.

10 **2. Restrictions on marijuana cultivation.** The following provisions apply to the
11 cultivation of marijuana for personal use by a person who is 21 years of age or older.

12 A. A person may cultivate up to 6 marijuana plants, including seedlings, at that
13 person's place of residence, on property owned by that person or on another person's
14 property with the permission of the owner of the other property.

15 B. A person who elects to cultivate marijuana shall take reasonable precautions to
16 ensure the plants are secure from unauthorized access or access by a person under 21
17 years of age. Reasonable precautions include, but are not limited to, cultivating
18 marijuana in a fully enclosed secure outdoor area, locked closet or locked room to
19 which a person under 21 years of age does not have access.

20 C. Marijuana cultivation for medical use is not considered cultivation for personal
21 use under this chapter and is governed by chapter 558-C.

22 **3. Use.** A person may smoke or ingest marijuana in a nonpublic place including a
23 private residence.

24 A. This subsection does not permit a person to consume marijuana in a manner that
25 endangers others.

26 B. The prohibitions and limitations on smoking tobacco products in specified areas
27 in chapters 262 and 263 apply to marijuana.

28 C. A person who smokes marijuana in a public place other than as governed by
29 chapters 262 and 263 commits a civil violation for which a fine of \$100 must be
30 adjudged.

31 **§2430-I. Marijuana establishments**

32 **1. Marijuana establishments.** A marijuana establishment may engage in the
33 manufacture, possession or purchase of marijuana, marijuana products and marijuana
34 accessories or sell marijuana, marijuana products or marijuana accessories to a consumer
35 as described in this subsection.

36 A. A retail marijuana store may:

37 (1) Possess, display or transport marijuana, marijuana products or marijuana
38 accessories;

39 (2) Purchase marijuana from a marijuana cultivation facility;

1 (3) Purchase marijuana or marijuana products from a marijuana product
2 manufacturing facility; or

3 (4) Sell marijuana, marijuana products or marijuana accessories to consumers.

4 B. A marijuana cultivation facility may:

5 (1) Cultivate, harvest, process, package, transport, display or possess marijuana;

6 (2) Deliver or transfer marijuana to a marijuana testing facility;

7 (3) Sell marijuana to another marijuana cultivation facility, a marijuana product
8 manufacturing facility or a retail marijuana store; or

9 (4) Purchase marijuana from another marijuana cultivation facility.

10 C. A marijuana product manufacturing facility may:

11 (1) Package, process, transport, manufacture, display or possess marijuana or
12 marijuana products;

13 (2) Deliver or transfer marijuana or marijuana products to a marijuana testing
14 facility;

15 (3) Sell marijuana or marijuana products to a retail marijuana store or a
16 marijuana product manufacturing facility;

17 (4) Purchase marijuana from a marijuana cultivation facility; or

18 (5) Purchase marijuana or marijuana products from a marijuana product
19 manufacturing facility.

20 D. A marijuana testing facility may possess, cultivate, process, repackage, store,
21 transport, display, transfer or deliver marijuana or marijuana products.

22 A marijuana establishment may lease or otherwise allow the use of property owned,
23 occupied or controlled by a person, corporation or other entity for any of the activities
24 conducted lawfully in accordance with paragraphs A to D.

25 2. Construction. This section may not be construed to prevent the imposition of
26 penalties for violating this chapter or state or local rules adopted pursuant to this chapter.

27 **§2430-J. Bureau of Marijuana Regulation, Licensing and Enforcement**

28 The Bureau of Marijuana Regulation, Licensing and Enforcement is created within
29 the Department of Administrative and Financial Services. The bureau shall:

30 1. General supervision. Enforce the laws and rules relating to the manufacturing,
31 processing, labeling, storing, transporting, testing and selling of marijuana by marijuana
32 establishments and administer those laws relating to licensing and the collection of taxes;

33 2. Rules. Establish rules consistent with this chapter for the administration and
34 enforcement of laws regulating and licensing marijuana establishments. Rules adopted
35 pursuant to this subsection are major substantive rules under Title 5, chapter 375,
36 subchapter 2-A;

1 **3. Inspections; memorandum of understanding.** If determined necessary by the
2 bureau, enter into a memorandum of understanding with the Department of Public Safety,
3 a county sheriff or other state or municipal law enforcement to perform inspections of
4 marijuana establishments;

5 **4. Licensing.** Issue marijuana cultivation facility, marijuana testing facility,
6 marijuana product manufacturing facility and retail marijuana store licenses pursuant to
7 section 2430-K;

8 **5. Prevent sales to minors and others.** Prevent the sale of marijuana by licensees
9 to minors and intoxicated persons;

10 **6. Publish laws and rules.** Ensure that licensees have access to the provisions of
11 this chapter and other laws and rules governing marijuana in accordance with this section;

12 **7. Post laws and rules.** Post on the department's publicly accessible website this
13 chapter and all rules adopted under this chapter. The bureau shall notify all licensees of
14 changes in the law and rules via a publicly accessible website posting within 90 days of
15 adjournment of each session of the Legislature. The bureau shall update the posting on
16 the department's publicly accessible website to reflect new laws and rules before the
17 effective date of the laws and rules;

18 **8. Certification.** Certify monthly to the Treasurer of State a complete statement of
19 revenues and expenses for licenses issued and for revenues collected by the bureau and
20 submit an annual report that includes a complete statement of the revenues and expenses
21 for the bureau to the Governor and the Legislature;

22 **9. Revocation and suspension of licenses.** Suspend or revoke the license of a
23 licensee in accordance with rules adopted by the bureau. A marijuana establishment
24 whose license is suspended or revoked pursuant to this subsection may:

25 **A.** Continue to possess marijuana during the time its license is suspended, but it may
26 not dispense, transfer or sell marijuana. If the marijuana establishment is a marijuana
27 cultivation facility, it may continue to cultivate marijuana plants during the time its
28 license is suspended. Marijuana may not be removed from the licensed premises
29 except as authorized by the bureau and only for the purpose of destruction; and

30 **B.** Possess marijuana for up to 7 days after the revocation of its license, during which
31 time the marijuana establishment shall dispose of its inventory of marijuana in
32 accordance with bureau rules; and

33 **10. Annual report.** Beginning January 15, 2015 and annually thereafter, report to
34 the joint standing committee of the Legislature having jurisdiction over marijuana
35 regulation. The report must include, but is not limited to, all rules adopted by the bureau
36 and statistics regarding the number of marijuana establishment applications received and
37 licensed and the licensing fees collected within the prior year.

38 **§2430-K. Licensing of marijuana establishments**

39 **1. Applications.** An applicant for a marijuana establishment license shall file an
40 application in the form required by the bureau for the type of marijuana establishment

1 license sought, along with the application fee as set by rule. An applicant may apply for
2 and be granted more than one type of marijuana establishment license except that a
3 person licensed as a marijuana testing facility may not hold any other marijuana
4 establishment license. The bureau shall begin accepting and processing applications by
5 August 1, 2014.

6 **2. Local consultation.** Upon receiving an application for a marijuana establishment,
7 the bureau shall immediately forward a copy of the application and 50% of the license
8 application fee to the locality in which the applicant desires to operate.

9 **3. License issued.** The bureau shall issue or renew a license to operate a marijuana
10 establishment to an applicant who meets the requirements of the bureau as set forth in
11 rule and in subsection 9 within 90 days of the date of receipt of the application unless:

12 A. The bureau finds the applicant is not in compliance with this section or rules
13 adopted by the bureau;

14 B. The bureau is notified by the relevant locality that the applicant is not in
15 compliance with an ordinance, rule or regulation made pursuant to section 2430-L
16 and in effect at the time of application; or

17 C. The number of marijuana establishments allowed in the locality has been limited
18 pursuant to section 2430-L or is limited by subsection 5 and the bureau has already
19 licensed the maximum number of marijuana establishments allowed in the locality for
20 the category of license that is sought.

21 **4. Competing applications.** The following provisions control the situation when
22 more than one application is received by the bureau for establishment of a marijuana
23 establishment in the same locality.

24 A. If a greater number of applications are received from qualified applicants to
25 operate a marijuana establishment in a locality than are allowed under the limits
26 enacted by the locality pursuant to section 2430-L or pursuant to subsection 5, the
27 bureau shall solicit and consider input from the locality as to the locality's preference
28 or preferences for licensure. Within 90 days of the date the first application is
29 received, the bureau shall issue the maximum number of applicable licenses for each
30 type of marijuana establishment license application received.

31 B. In any competitive application process to determine which applicants will receive
32 licenses for any class of marijuana establishment, the bureau shall give preference to
33 an applicant who has at least one year of previous experience cultivating marijuana in
34 compliance with chapter 558-C or in operating another business in this State in
35 compliance with state law.

36 C. The bureau may not grant a license for a marijuana establishment to a licensee
37 who has already received a license to operate the same type of marijuana
38 establishment if doing so would prevent another qualified applicant from receiving a
39 license.

40 **5. Limitation on number of retail marijuana stores.** Unless the locality has
41 prohibited retail marijuana stores or has enacted a lower limit on the number of retail
42 marijuana stores, the bureau shall license:

- 1 A. Four retail marijuana stores in a locality with a population over 20,000;
- 2 B. Two retail marijuana stores in a locality with a population of at least 5,001 but
- 3 less than 20,001; and
- 4 C. One retail marijuana store in a locality with a population of at least 2,000 but less
- 5 than 5,001.

6 The bureau may license one retail marijuana store in a locality where the population is
7 less than 2,000 if the municipality or county commissioners for the locality have not
8 prohibited retail marijuana stores. The bureau may grant a locality's request to allow
9 additional marijuana stores. The bureau may consider the impact of seasonal population
10 or tourism and other related information provided by the locality requesting an additional
11 marijuana establishment location.

12 **6. Reasons for denial.** Upon denial of an application, the bureau shall notify the
13 applicant in writing of the specific reason for its denial.

14 **7. License term.** All licenses under this chapter are effective for one year from the
15 date of issuance.

16 **8. Qualifications.** This subsection governs the qualifications for licensure as a
17 marijuana establishment.

18 A. A person who has been convicted of a disqualifying drug offense may not be a
19 licensee. For purposes of this section, "disqualifying drug offense" means a
20 conviction for a violation of a state or federal controlled substance law that is a crime
21 punishable by imprisonment for one year or more. It does not include an offense for
22 which the sentence, including any term of probation, incarceration or supervised
23 release, was completed 10 or more years prior to application for licensure or an
24 offense that consisted of conduct that is permitted under this chapter.

25 B. A person who has had a license for a marijuana establishment revoked may not be
26 a licensee.

27 C. If the applicant is a corporation, an applicant may not be issued a license if any of
28 the principal officers of the corporation is personally ineligible under paragraphs A or
29 B.

30 **9. Operations.** This subsection governs the operation of a marijuana establishment.

31 A. A marijuana establishment may not be located within 500 feet of the property line
32 of a preexisting public or private school. The distance must be measured from the
33 main entrance of the marijuana establishment to the main entrance of the school by
34 the ordinary course of travel.

35 B. A licensee shall implement appropriate security measures, consistent with rules
36 issued by the bureau, that are designed to prevent:

37 (1) Unauthorized entrance into areas containing marijuana;

38 (2) The theft of marijuana located on the premises or in transit to or from the
39 premises by the licensee;

- 1 (3) Tampering with or adulteration of the marijuana products;
- 2 (4) Unauthorized access to marijuana or marijuana accessories; and
- 3 (5) Access to marijuana by or sales of marijuana to minors, except that a
- 4 marijuana establishment that is also a primary caregiver or a dispensary may
- 5 continue to serve its qualifying patients as permitted under chapter 558-C.

6 C. A licensee shall prepare and maintain documents that include procedures for the
7 oversight of all aspects of operations and procedures to ensure accurate record
8 keeping.

9 D. A marijuana establishment shall make available for inspection its license at the
10 premises to which that license applies. A licensee may not refuse a representative of
11 the bureau the right at any time to inspect the entire licensed premises or to audit the
12 books and records of the licensee.

13 E. A retail marijuana store may not sell marijuana to a person under 21 years of age
14 or to a visibly intoxicated person.

15 F. A retail marijuana store may not allow a minor to enter or remain on the premises
16 of the retail marijuana store unless the minor is an employee of the bureau, a law
17 enforcement officer, emergency personnel or a contractor performing work on the
18 facility that is not directly related to marijuana, such as installing or maintaining
19 security devices or performing electrical wiring.

20 G. Marijuana may be not be sold by a marijuana establishment between the hours of
21 1 a.m. and 6 a.m.

22 H. A marijuana establishment may not employ as a manager or leave in charge of the
23 licensed premises any person who, by reason of conviction for a disqualifying drug
24 offense or because of a revocation of that person's marijuana establishment license, is
25 not eligible for a marijuana establishment license.

26 I. A retail marijuana store may not offer any free merchandise, rebate or gift to a
27 consumer.

28 J. A retail marijuana store may only sell or furnish marijuana to a consumer from the
29 premises licensed by the department. A retail marijuana store may not, either directly
30 or indirectly, by any agent or employee, travel from locality to locality, or from place
31 to place within the same locality, selling, bartering or carrying for sale or exposing
32 for sale marijuana from any vehicle.

33 **10. False statements.** A person who intentionally provides false information on an
34 application for a marijuana establishment license violates Title 17-A, section 453.

35 **11. Notification of license expiration.** The following provisions apply when a
36 licensee's license expires.

37 A. A licensee that unintentionally fails to renew a license held by that licensee upon
38 its expiration date and continues to engage in activities allowed by section 2430-I is
39 not chargeable with illegal sales for a period of 7 days following the expiration date.
40 A licensee that continues to make sales of marijuana after having been properly
41 notified of the expired license may be charged with illegally selling marijuana.

1 B. At least 30 days prior to the expiration of a licensee's license issued pursuant to
2 this chapter, the bureau shall notify the licensee by the most expedient means
3 available:

4 (1) That the licensee's license is scheduled to expire;

5 (2) The date of expiration; and

6 (3) That all sales of marijuana must be suspended after the date of expiration and
7 remain suspended until the license is properly renewed.

8 Failure by the bureau to notify a licensee pursuant to the paragraph does not excuse a
9 licensee from being charged with a violation of this chapter.

10 **§2430-L. Local control**

11 **1. Local option.** A locality may prohibit the operation of one or more of the types of
12 marijuana establishments through the enactment of an ordinance or through an initiated or
13 referred measure, except that any initiated or referred measure to prohibit the operation of
14 each type of marijuana establishment must appear on a general election ballot for that
15 locality.

16 **2. Local regulations.** If a locality does not prohibit the operation of a marijuana
17 establishment pursuant to subsection 1, the following provisions apply.

18 A. No later than September 1, 2014, a locality may enact an ordinance or regulation
19 specifying the entity within the locality that is responsible for processing applications
20 submitted for a licensee to operate a marijuana establishment within the boundaries
21 of the locality. The locality may provide that the entity may issue such licenses
22 should the issuance by the locality become necessary because of a failure by the
23 bureau to adopt rules pursuant to section 2430-J or because of a failure by the bureau
24 to process and issue licenses as required by section 2430-K.

25 B. A locality may enact ordinances, rules or regulations pursuant to this paragraph as
26 long as those ordinances, rules or regulations are not in conflict with this section or
27 with rules issued pursuant to section 2430-J. The ordinances may:

28 (1) Govern the time, place and manner of operations and number of marijuana
29 establishments;

30 (2) Establish procedures for the issuance, suspension and revocation of a license
31 issued by the locality in accordance with paragraph C or D;

32 (3) Establish a schedule of annual operating, licensing and application fees for a
33 marijuana establishment. This subparagraph applies only if the application fee or
34 licensing fee is submitted to a locality in accordance with paragraph C or D; and

35 (4) Establish civil penalties for violation of an ordinance, rule or regulation
36 governing the time, place and manner that a marijuana establishment may operate
37 in that locality.

38 C. If the bureau has not begun issuing licenses by January 1, 2015, an applicant may
39 submit an application directly to the locality in which it wants to operate. A locality
40 that receives an application pursuant to this paragraph shall issue a license to an

1 applicant within 90 days of receipt of the application unless the locality finds, and
2 notifies the applicant, that the applicant is not in compliance with an ordinance, rule
3 or regulation made pursuant to section 2430-J or paragraph B in effect at the time of
4 application. The locality shall notify the bureau if the locality issues an annual license
5 to the applicant.

6 D. If the bureau does not issue a license to an applicant within 90 days of receipt of
7 the application filed in accordance with section 2430-K and does not notify the
8 applicant of the specific, permissible reason for the denial, in writing and within 90
9 days of receipt of the application, the applicant may resubmit its application directly
10 to the locality and the locality may issue an annual license to the applicant. A locality
11 issuing a license to an applicant shall do so within 90 days of receipt of the
12 resubmitted application unless the locality finds, and notifies the applicant, that the
13 applicant is not in compliance with an ordinance, rule or regulation made pursuant to
14 section 2430-J or paragraph B in effect at the time the application is resubmitted. The
15 locality shall notify the bureau if the locality issues an annual license to the applicant.
16 If an application is submitted to a locality under this paragraph, the bureau shall
17 forward to the locality the application fee paid by the applicant to the bureau upon
18 request by the locality.

19 E. A license issued by a locality in accordance with paragraph C or D has the same
20 force and effect as a license issued by the bureau in accordance with section 2430-K
21 and the holder of that license is not subject to regulation or enforcement by the
22 bureau during the term of that license. A subsequent or renewed license may be
23 issued under this paragraph on an annual basis if the bureau has not adopted rules
24 required by section 2430-J at least 90 days prior to the date upon which such
25 subsequent or renewed license would be effective, or if the bureau has adopted rules
26 pursuant to 2430-J but has not, at least 90 days after the adoption of those rules,
27 issued any marijuana establishment licenses pursuant to section 2430-K.

28 **§2430-M. Marijuana Regulation and Licensing Fund established**

29 **1. Fund established.** The Marijuana Regulation and Licensing Fund, referred to in
30 this section as "the fund," is established as an Other Special Revenue Funds account in
31 the bureau for the purposes specified in this section.

32 **2. Sources of fund.** The State Controller shall credit to the fund:

33 A. All money received as a result of applications and renewal registrations for
34 licensing under section 2430-K;

35 B. Any penalties and fines established pursuant to rule and assessed for violations of
36 this chapter;

37 C. All money from any other source, whether public or private, designated for
38 deposit into or credited to the fund;

39 D. Ten percent of the revenue generated by the excise tax imposed by Title 36,
40 section 4922; and

41 E. Interest earned or other investment income on balances in the fund.

1 **3. Uses of the fund.** The fund must be used for expenses of the bureau to regulate,
2 license and inspect marijuana establishments.

3 **§2430-N. Defense of state law**

4 The Office of the Attorney General shall to the best of the abilities of the office and
5 in good faith advocate to quash any federal subpoena for records involving marijuana
6 establishments.

7 **§2430-O. Research authorized**

8 Notwithstanding the provisions of this chapter regulating the distribution of
9 marijuana, a scientific or medical researcher who has previously published peer-reviewed
10 research may purchase, possess and securely store marijuana for purposes of conducting
11 research. A scientific or medical researcher may administer and distribute marijuana to a
12 participant in research who is at least 21 years of age after receiving informed consent
13 from that participant.

14 **§2430-P. Construction**

15 **1. Relation to Maine Medical Use of Marijuana Act.** This chapter may not be
16 construed to limit any privileges or rights of a qualifying patient, primary caregiver or
17 registered dispensary under the Maine Medical Use of Marijuana Act as provided in
18 chapter 558-C.

19 **2. Employment policies.** This chapter may not be construed to require an employer
20 to permit or accommodate the use, consumption, possession, transfer, display,
21 transportation, sale or growing of marijuana in the workplace or to affect the ability of
22 employers to have policies restricting the use of marijuana by employees.

23 **3. Operating under the influence.** This chapter may not be construed to exempt a
24 person from the laws prohibiting operating under the influence of intoxicants under Title
25 29-A, section 2401, subsection 13.

26 **4. Transfer to minor.** This chapter may not be construed to permit the transfer of
27 marijuana, with or without remuneration, to a person under 21 years of age or to allow a
28 person under 21 years of age to purchase, possess, use, transport, grow or consume
29 marijuana.

30 **5. Restriction on use of property.** This chapter may not be construed to prohibit a
31 person, employer, school, hospital, detention facility, corporation or any other entity that
32 occupies, owns or controls real property from prohibiting or otherwise regulating the
33 possession, consumption, use, display, transfer, distribution, sale, transportation or
34 growing of marijuana on or in that real property.

35 **§2430-Q. Marijuana Research Fund established**

36 **1. Fund established.** The Marijuana Research Fund, referred to in this section as
37 "the fund," is established in and administered by the Department of Health and Human

1 Services and is an interest-bearing Other Special Revenue Funds account. Balances in
2 the fund may not lapse and must be carried forward to the next fiscal year.

3 **2. Sources of fund.** The State Controller shall credit to the fund:

4 A. Five percent of the revenue generated by the excise tax imposed by Title 36,
5 section 4922 until January 1, 2022;

6 B. Any other money contributed voluntarily to the fund; and

7 C. Interest earned or other investment income on balances in the fund.

8 **3. Uses of the fund.** All money deposited in the fund and the earnings on that
9 money remain in the fund to be used to provide grants for the purpose of producing peer-
10 reviewed research on marijuana's beneficial uses and safety. Money in the fund may also
11 be used for the necessary administrative and personnel costs associated with the
12 management of the fund but may not be deposited in the General Fund or any other fund
13 except as specifically provided by law.

14 **Sec. C-2. Rulemaking.** By June 1, 2014, the Department of Administrative and
15 Financial Services, Bureau of Marijuana Regulation, Licensing and Enforcement shall
16 adopt emergency major substantive rules, as defined in the Maine Revised Statutes, Title
17 5, chapter 375, subchapter 2-A, for the administration and the enforcement of laws
18 regulating and licensing marijuana establishments pursuant to Title 22, chapter 558-D.
19 These rules must be developed by the bureau and may not be contracted out to an entity
20 outside the bureau. These rules may not prohibit the operation of marijuana
21 establishments, either expressly or through restrictions that make the operation of
22 marijuana establishments unreasonably impracticable. As used in this section,
23 "unreasonably impracticable" means that the measures necessary to comply with the rules
24 require such a high investment of risk, money, time or other resource or asset that the
25 operation of a marijuana establishment is not worthy of being carried out in practice by a
26 reasonably prudent businessperson.

27 Rules adopted pursuant to this section must include:

28 1. Provisions for administering and enforcing Title 22, chapter 558-D, including
29 oversight requirements and civil penalties for violations;

30 2. The form and content of applications for each type of marijuana establishment
31 license, renewal registration forms and associated licensing and renewal fee schedules,
32 except that an application, licensing or renewal fee may not exceed \$5,000;

33 3. In making a determination between competing applicants for the same type of
34 marijuana establishment license, if there are more applicants than licenses available, that
35 preference must be given to a member or officer of a board of a corporation operating a
36 registered dispensary under Title 22, chapter 558-C or a senior manager of registered
37 dispensary under Title 22, chapter 558-C;

38 4. Procedures allowing an applicant who has been denied a license due to failure to
39 meet the requirements for licensing to correct the reason for failure;

- 1 5. Procedures and timelines for background checks and appeals;
- 2 6. Rules governing the transfer of a license, which must be substantially the same as
3 rules governing the transfer of a license for the sale of liquor under Title 28-A, section
4 605;
- 5 7. Minimum standards for employment, including requirements for background
6 checks, restrictions against hiring persons under 21 years of age and safeguards to protect
7 against unauthorized employee access to marijuana;
- 8 8. Minimum record-keeping requirements, including the following:
 - 9 A. The recording of the disposal of marijuana that is not sold; and
 - 10 B. For a marijuana establishment that is also a nonprofit dispensary or a primary
11 caregiver, a requirement to segregate all funds received from the sale of medical
12 marijuana pursuant to Title 22, chapter 558-C from all funds received from the sale of
13 commercial marijuana pursuant to Title 22, chapter 558--D.
- 14 Rules developed pursuant to this subsection may not require a consumer to provide a
15 retail marijuana store with personal information other than government-issued
16 identification to determine the consumer's age or require the retail marijuana store to
17 acquire and record personal information about its consumers;
- 18 9. Health and safety rules and standards for the manufacture of marijuana products
19 and the cultivation of marijuana;
- 20 10. Labeling requirements for marijuana and marijuana products sold or distributed
21 by a marijuana establishment;
- 22 11. Restrictions on the advertising, signs and display of marijuana and marijuana
23 products;
- 24 12. Minimum security requirements, including standards to reasonably protect
25 against unauthorized access to marijuana at all stages of the licensee's possession,
26 transportation, storage and cultivation of marijuana; these security requirements may not
27 prohibit outdoor cultivation in an enclosed, secured space;
- 28 13. Procedures for enforcing Title 22, section 2430-K, subsections 9 and 10,
29 including civil penalties for violations, procedures for suspending or terminating the
30 license of a licensee that violates licensing provisions or the rules adopted pursuant to this
31 section and procedures for appeals of penalties or licensing actions;
- 32 14. A streamlined application and approval process for a person named as a primary
33 caregiver pursuant to Title 22, section 2422, subsection 8-A and for an entity that is
34 operating as a registered dispensary under Title 22, section 2428; and
- 35 15. Any other oversight requirements that the bureau determines are necessary to
36 administer the laws relating to licensing marijuana establishments.

1 Notwithstanding the limits on retail marijuana stores specified in Title 22, section
2 2430-K or imposed pursuant to Title 22, section 2430-L, until the initial rules of the
3 bureau have been reviewed by the Legislature, the bureau may issue only 25% of the
4 number of licenses allowed per municipality, but must issue at least one.

5 Rules adopted pursuant to this section may not prohibit a locality, as defined in Title
6 22, section 2430-F, from limiting the number of each type of licensee that may operate in
7 the locality or from enacting reasonable regulations applicable to licensees.

8 **Sec. C-3. Marijuana Research Fund rulemaking.** By July 1, 2014, the
9 Department of Health and Human Services shall adopt emergency major substantive
10 rules, as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, to
11 implement the provisions of Title 22, section §2430-Q regarding administration and uses
12 of the Marijuana Research Fund.

13 Rules adopted pursuant to this section must include:

- 14 1. Application procedures, forms, deadlines and eligibility criteria for grants;
- 15 2. Selection criteria and composition of a grant review committee, which must
16 include researchers with expertise in medical or scientific research;
- 17 3. Criteria for awarding grants, dates for decisions of grant awards and methods for
18 disbursement of funds;
- 19 4. Minimum record-keeping, reporting and publication requirements for persons
20 awarded grants; and
- 21 5. Any other oversight requirements that the department determines necessary to
22 administer the grants.

23 PART D

24 **Sec. D-1. 22 MRSA §2423-A, sub-§3, ¶¶A and B,** as enacted by PL 2009, c.
25 631, §21 and affected by §51, are amended to read:

26 A. A patient who elects to cultivate marijuana plants must take reasonable
27 precautions to keep the plants in an enclosed, locked facility, unless the plants are
28 being transported because the patient is moving or taking the plants to the patient's
29 own property in order to cultivate them, secure from unauthorized access or from
30 access by a person under 21 years of age. Reasonable precautions include, but are not
31 limited to, cultivating marijuana in a fully enclosed secure outdoor area, locked closet
32 or locked room to which a person under 21 years of age does not have access.

33 B. A primary caregiver who has been designated by a patient to cultivate marijuana
34 for the patient's medical use must take reasonable precautions to keep all plants in an
35 enclosed, locked facility, unless the plants are being transported because the primary
36 caregiver is moving or taking the plants to the primary caregiver's own property in
37 order to cultivate them, secure from unauthorized access or from access by a person
38 under 21 years of age. Reasonable precautions include, but are not limited to,

1 cultivating marijuana in a fully enclosed secure outdoor area, locked closet or locked
2 room to which a person under 21 years of age does not have access.

3 **Sec. D-2. 22 MRSA §2423-A, sub-§3, ¶D**, as enacted by PL 2011, c. 407, Pt. B,
4 §16, is amended to read:

5 D. Two primary caregivers who are members of the same family or household may
6 share the same enclosed, locked facility or area in which plants are kept secure from
7 unauthorized access or from access by a person under 21 years of age as required by
8 paragraphs A and B.

9 **PART E**

10 **Sec. E-1. 15 MRSA §5821-A**, as amended by IB 2009, c. 1, §1, is further
11 amended to read:

12 **§5821-A. Property not subject to forfeiture based on use of marijuana**

13 Property is not subject to forfeiture under this chapter if the activity that subjects the
14 person's property to forfeiture is ~~medical use of~~ related to marijuana use and the person
15 meets the requirements for medical use of marijuana under Title 22, chapter 558-C or
16 personal or commercial marijuana activities under Title 22, chapter 558-D.

17 **Sec. E-2. 17-A MRSA §1111-A, sub-§1**, as amended by IB 2009, c. 1, §2, is
18 further amended to read:

19 **1.** As used in this section the term "drug paraphernalia" means all equipment,
20 products and materials of any kind that are used or intended for use in planting,
21 propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,
22 producing, processing, preparing, testing, analyzing, packaging, repackaging, storing,
23 containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the
24 human body a scheduled drug in violation of this chapter or Title 22, section 2383, except
25 that this section does not apply to a person who is authorized to possess marijuana for
26 medical use pursuant to Title 22, chapter 558-C or personal or commercial marijuana
27 activities pursuant to Title 22, chapter 558-D, to the extent the drug paraphernalia is used
28 for that person's medical use of marijuana or personal or commercial activities as allowed
29 under Title 22, chapter 558-D. It includes, but is not limited to:

30 A. Kits used or intended for use in planting, propagating, cultivating, growing or
31 harvesting of any species of plant which is a scheduled drug or from which a
32 scheduled drug can be derived;

33 B. Kits used or intended for use in manufacturing, compounding, converting,
34 producing, processing or preparing scheduled drugs;

35 C. Isomerization devices used or intended for use in increasing the potency of any
36 species of plant that is a scheduled drug;

37 D. Testing equipment used or intended for use in identifying or in analyzing the
38 strength, effectiveness or purity of scheduled drugs;

- 1 E. Scales and balances used or intended for use in weighing or measuring scheduled
2 drugs;
- 3 F. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite,
4 dextrose and lactose, used or intended for use in cutting scheduled drugs;
- 5 G. Separation gins and sifters, used or intended for use in removing twigs and seeds
6 from, or in otherwise cleaning or refining, marijuana;
- 7 H. Blenders, bowls, containers, spoons and mixing devices used or intended for use
8 in compounding scheduled drugs;
- 9 I. Capsules, balloons, envelopes and other containers used or intended for use in
10 packaging small quantities of scheduled drugs;
- 11 J. Containers and other objects used or intended for use in storing or concealing
12 scheduled drugs; and
- 13 K. Objects used or intended for use in ingesting, inhaling or otherwise introducing
14 marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - 15 (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without
16 screens, permanent screens, hashish heads or punctured metal bowls;
 - 17 (2) Water pipes;
 - 18 (3) Carburetion tubes and devices;
 - 19 (4) Smoking and carburetion masks;
 - 20 (5) Roach clips, meaning objects used to hold burning material, such as a
21 marijuana cigarette that has become too small or too short to be held in the hand;
 - 22 (6) Miniature cocaine spoons and cocaine vials;
 - 23 (7) Chamber pipes;
 - 24 (8) Carburetor pipes;
 - 25 (9) Electric pipes;
 - 26 (10) Air-driven pipes;
 - 27 (11) Chillums;
 - 28 (12) Bongs; or
 - 29 (13) Ice pipes or chillers.

30 **Sec. E-3. 17-A MRSA §1111-A, sub-§§4-A and 4-B**, as enacted by PL 2011,
31 c. 464, §20, are amended to read:

32 **4-A.** Except as provided in Title 22, ~~chapter~~ chapters 558-C and 558-D, a person is
33 guilty of use of drug paraphernalia if:

34 A. The person trafficks in or furnishes drug paraphernalia knowing, or under
35 circumstances when that person reasonably should know, that it will be used to plant,
36 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,

1 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
2 inhale or otherwise introduce into the human body a scheduled drug in violation of
3 this chapter or Title 22, section 2383, and the person to whom that person is
4 trafficking or furnishing drug paraphernalia is:

5 (1) At least 16 years of age. Violation of this subparagraph is a Class E crime;
6 or

7 (2) Less than 16 years of age. Violation of this subparagraph is a Class D crime;
8 or

9 B. The person places in a newspaper, magazine, handbill or other publication an
10 advertisement knowing, or under circumstances when that person reasonably should
11 know, that the purpose of the advertisement, in whole or in part, is to promote the
12 sale of objects intended for use as drug paraphernalia. Violation of this paragraph is
13 a Class E crime.

14 **4-B.** Except as provided in Title 22, ~~chapter~~ chapters 558-C and 558-D, a person
15 commits a civil violation if:

16 A. The person in fact uses drug paraphernalia to plant, propagate, cultivate, grow,
17 harvest, manufacture, compound, convert, produce, process, prepare, test, analyze,
18 pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into
19 the human body a scheduled drug in violation of this chapter or Title 22, section
20 2383. Violation of this paragraph is a civil violation for which a fine of \$300 must be
21 adjudged, none of which may be suspended; or

22 B. The person possesses with intent to use drug paraphernalia to plant, propagate,
23 cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare,
24 test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise
25 introduce into the human body a scheduled drug in violation of this chapter or Title
26 22, section 2383. Violation of this paragraph is a civil violation for which a fine of
27 \$300 must be adjudged, none of which may be suspended.

28 **Sec. E-4. 17-A MRSA §1117, sub-§4**, as enacted by PL 2009, c. 631, §3 and
29 affected by §51, is amended to read:

30 **4.** A person is not guilty of cultivating marijuana if the conduct is expressly
31 authorized by Title 22, chapter 558-C or exempt from penalties under Title 22, chapter
32 558-D.

33 PART F

34 **Sec. F-1. 7 MRSA §483, first ¶**, as amended by PL 2011, c. 407, Pt. A, §1, is
35 further amended to read:

36 For the purpose of this chapter and chapter 103, unless the term is more specifically
37 defined, "adulterated" means made impure or inferior by adding extraneous ingredients.
38 Goods that are prepared in food establishments that are licensed facilities under Title 22,
39 section 2167 and that contain marijuana for medical use by a qualifying patient, pursuant
40 to Title 22, chapter 558-C, and a retail marijuana store that sells food containing

1 marijuana pursuant to Title 22, chapter 558-D are not considered to be adulterated under
2 this subchapter.

3 **Sec. F-2. 7 MRSA §2231, sub-§3**, as enacted by PL 2009, c. 320, §1, is amended
4 to read:

5 **3. Application.** A person desiring to grow industrial hemp for commercial purposes
6 shall apply to the commissioner for a license on a form prescribed by the commissioner.
7 The application must include the name and address of the applicant, the legal description
8 of the land area to be used for the production of industrial hemp and a map, an aerial
9 photograph or global positioning coordinates sufficient for locating the production fields.
10 ~~Except for employees of the Maine Agricultural Experiment Station and the University of~~
11 ~~Maine System involved in research and related activities, an applicant for an initial~~
12 ~~licensure must submit a set of the applicant's fingerprints, taken by a law enforcement~~
13 ~~officer, and any other information necessary to complete a statewide and nationwide~~
14 ~~criminal history record check by the Department of Public Safety, State Bureau of~~
15 ~~Identification and the Federal Bureau of Investigation. All costs associated with the~~
16 ~~criminal history record check are the responsibility of the applicant and must be~~
17 ~~submitted with the fingerprints. Criminal history records provided to the commissioner~~
18 ~~under this section are confidential. The results of criminal records checks received under~~
19 ~~this subsection may only be used in determining an applicant's eligibility for licensure. A~~
20 ~~person with a prior criminal conviction is not eligible for licensure.~~

21 **Sec. F-3. 7 MRSA §2231, sub-§4**, as enacted by PL 2009, c. 320, §1, is amended
22 to read:

23 **4. License issued.** Upon review and approval of an application, the commissioner
24 shall notify the applicant and request that the application fee determined under subsection
25 7 be submitted. Upon receipt of the appropriate fee ~~and in accordance with subsection 8~~,
26 the commissioner shall issue a license, which is valid for a period of one year and only
27 for the site or sites specified in the license.

28 **Sec. F-4. 7 MRSA §2231, sub-§5**, as enacted by PL 2009, c. 320, §1, is repealed.

29 **Sec. F-5. 7 MRSA §2231, sub-§8**, as enacted by PL 2009, c. 320, §1, is repealed.

30 **Sec. F-6. 22 MRSA §2152, sub-§4-A**, as amended by PL 2011, c. 407, Pt. A, §2,
31 is further amended to read:

32 **4-A. Food establishment.** "Food establishment" means a factory, plant, warehouse
33 or store in which food and food products are manufactured, processed, packed, held for
34 introduction into commerce or sold. "Food establishment" includes a primary caregiver,
35 as defined in section 2422, subsection 8-A, and a registered dispensary, as defined in
36 section 2422, subsection 6, that prepare food containing marijuana for medical use by a
37 qualifying patient pursuant to chapter 558-C and a retail marijuana store that sells food
38 containing marijuana pursuant to chapter 558-D. The following establishments are not
39 considered food establishments required to be licensed under section 2167:

40 A. Eating establishments, as defined in section 2491, subsection 7;

- 1 B. Fish and shellfish processing establishments inspected under Title 12, section
2 6101, 6102 or 6856;
- 3 C. Storage facilities for native produce;
- 4 D. Establishments such as farm stands and farmers' markets primarily selling fresh
5 produce not including dairy and meat products;
- 6 E. Establishments engaged in the washing, cleaning or sorting of whole produce,
7 provided the produce remains in essentially the same condition as when harvested.
8 The whole produce may be packaged for sale, provided that packaging is not by a
9 vacuum packaging process or a modified atmosphere packaging process;
- 10 F. Establishments that are engaged in the drying of single herbs that are generally
11 recognized as safe under 21 Code of Federal Regulations, Sections 182 to 189. The
12 single herbs may be packaged for sale, provided that packaging is not by a vacuum
13 packaging process or a modified atmosphere packaging process; and
- 14 G. A primary caregiver, as defined in section 2422, subsection 8-A, conducting an
15 activity allowed in section 2423-A for a qualifying patient who is a member of the
16 family, as defined in section 2422, subsection 5-A, or member of the household, as
17 defined in section 2422, subsection 5-B, of the primary caregiver.

18 **Sec. F-7. 22 MRSA §2158**, as amended by PL 2011, c. 407, Pt. A, §3 and
19 amended by c. 657, Pt. W, §6, is further amended to read:

20 **§2158. Addition of certain substances limited**

21 Any poisonous or deleterious substance added to any food, except where such
22 substance is required in the production thereof or cannot be avoided by good
23 manufacturing practice, must be deemed to be unsafe for purposes of the application of
24 section 2156, subsection 1, paragraph B; but when such substance is so required or cannot
25 be avoided, the Commissioner of Agriculture, Conservation and Forestry shall adopt rules
26 limiting the quantity therein or thereon to such extent as the commissioner finds
27 necessary for the protection of public health, and any quantity exceeding the limits so
28 fixed must be deemed to be unsafe for purposes of the application of section 2156,
29 subsection 1, paragraph B. While such a rule is in effect limiting the quantity of any such
30 substance in the case of any food, such food may not, by reason of bearing or containing
31 any added amount of such substance, be considered to be adulterated within the meaning
32 of section 2156, subsection 1, paragraph A. In determining the quantity of such added
33 substance to be tolerated in or on different articles of food, the commissioner shall take
34 into account the extent to which the use of such substance is required or cannot be
35 avoided in the production of each such article and the other ways in which the consumer
36 may be affected by the same or other poisonous or deleterious substances. Goods that are
37 prepared by a primary caregiver under section 2152, subsection 4-A, paragraph G or in a
38 food establishment that is a licensed facility under section 2167 and that contain
39 marijuana for medical use by a qualifying patient, pursuant to chapter 558-C, or that
40 contain marijuana and are prepared for sale in a retail marijuana store pursuant to chapter
41 558-D are not considered to be adulterated under this subchapter.

1 "Do you favor allowing adults 21 years of age and older to engage in the
2 personal use of marijuana, regulating commercial marijuana-related
3 activities and imposing a tax on the sale of marijuana?"

4 The legal voters of each city, town and plantation shall vote by ballot on this question
5 and designate their choice by a cross or check mark placed within a corresponding square
6 below the word "Yes" or "No." The ballots must be received, sorted, counted and
7 declared in open ward, town and plantation meetings and returns made to the Secretary of
8 State in the same manner as votes for members of the Legislature. The Governor shall
9 review the returns. If a majority of the legal votes are cast in favor of this Act, the
10 Governor shall proclaim the result without delay and this Act becomes effective 30 days
11 after the date of the proclamation.

12 The Secretary of State shall prepare and furnish to each city, town and plantation all
13 ballots, returns and copies of this Act necessary to carry out the purposes of this
14 referendum.

15 **SUMMARY**

16 This bill reforms state marijuana laws by establishing an excise tax on marijuana,
17 allowing the personal use and cultivation of marijuana and allowing, regulating and
18 licensing certain commercial marijuana-related activities, while providing provisions to
19 protect minors, employers and schools.

20 Part A of the bill establishes a tax rate of \$50 per ounce for marijuana that is sold or
21 transferred by licensed marijuana cultivation facilities. It directs the State Controller to
22 distribute 10% of the revenue to regulating marijuana establishments, 5% to research into
23 marijuana until January 1, 2021 and the remainder to the General Fund. It directs the
24 Department of Administrative and Financial Services, Bureau of Revenue Services to
25 report annually, beginning January 30, 2015, the amount of tax revenue generated and the
26 amount distributed to each program to the joint standing committees of the Legislature
27 having jurisdiction over appropriations and financial affairs and taxation matters. The bill
28 directs the Bureau of Revenue Services to review methods for ensuring that all marijuana
29 that is sold in the State is assessed and to report its findings and recommendations to the
30 Joint Standing Committee on Taxation by February 15, 2014.

31 Part B removes the civil violation for adults 21 years of age and older who possess up
32 to 2 1/2 ounces of marijuana and creates a new civil violation for minors who present
33 false identification to a retail marijuana store.

34 Part C of the bill allows a person 21 years of age or older to possess, purchase and
35 use marijuana within certain limits and to cultivate a limited amount of marijuana for
36 personal use. It allows a person to possess marijuana paraphernalia and up to 2 1/2 ounces
37 of marijuana. It allows a person to cultivate up to 6 marijuana plants, including seedlings,
38 and to purchase up to 2 1/2 ounces of marijuana, marijuana paraphernalia and marijuana
39 seedlings from someone who is licensed to sell these products. The bill imposes the same
40 type of restrictions on marijuana use that apply to tobacco use and that ban smoking in
41 other public places. It requires those cultivating marijuana to secure it from access by

1 unauthorized persons and access by minors. It also provides protections for schools and
2 employers.

3 It includes specific requirements for the operations of commercial marijuana-related
4 activities regarding the location of operations, security measures, labeling and record
5 keeping. It allows localities to limit the number of each of 4 types of licensees, to regulate
6 them or to ban them. It further limits the number of retail marijuana stores based on the
7 size of the municipality. It establishes the Bureau of Marijuana Regulation, Licensing
8 and Enforcement in the Department of Administrative and Financial Services. The
9 bureau is required to adopt emergency major substantive rules by June 1, 2014 for the
10 licensing and regulation of marijuana establishments. Included in the rules must be a
11 provision giving preference for licensing to a member or officer of a board of a
12 corporation operating a registered dispensary under the Maine Medical Use of Marijuana
13 Act or a senior manager of a registered dispensary. Until the initial rules adopted by the
14 bureau are reviewed by the Legislature, the bureau is permitted to issue only 25% of the
15 number of licenses for a retail marijuana store allowed in a municipality, but must issue at
16 least one. The bill creates the Marijuana Regulations and Licensing Fund to provide a
17 funding mechanism for regulation of commercial marijuana-related activities. Part C of
18 the bill also establishes the Marijuana Research Fund, which is funded by part of the
19 revenue generated from the marijuana tax. The Department of Health and Human
20 Services is required to adopt rules for administering the fund by July 1, 2014.

21 Part D of the bill changes the requirement for patients, primary caregivers and
22 dispensaries to keep marijuana in an enclosed, locked facility. Instead, it requires that the
23 marijuana be secured from unauthorized access or from access by a person under 21 years
24 of age.

25 Part E of the bill updates the existing exceptions regarding possession of marijuana in
26 the Maine Criminal Code to reflect the use permitted by this legislation.

27 Part F of the bill removes the fingerprinting and criminal history record check
28 requirements from the existing laws that allow a person to apply to the Department of
29 Agriculture, Conservation and Forestry for a license to grow industrial hemp. It removes
30 provisions in the law that make licensing of industrial hemp farming contingent upon
31 federal action and that require licensees to document the type of hemp planted and to
32 provide notification of each sale. This Part also updates various provisions of the Maine
33 Revised Statutes, Title 7 that are affected by changes in terminology proposed to the
34 Maine medical marijuana law in this bill and in Title 26 to prohibit the employment of a
35 person under 21 years of age in an establishment licensed for commercial marijuana-
36 related activities.

37 Part G of the bill provides that a person cannot be found to lack "good moral
38 character" for personal, medical or commercial marijuana activities allowed by this
39 legislation for purposes of obtaining a permit to carry a concealed handgun.

40 Part H of the bill requires this legislation to be submitted to statewide referendum for
41 approval by the voters of the State.