

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1059

H.P. 728

House of Representatives, March 24, 2015

An Act Relating to Marijuana Testing Facilities

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

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FARNSWORTH of Portland.
Cosponsored by Representatives: HAMANN of South Portland, HERBIG of Belfast,
SANDERSON of Chelsea.

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

2 **Sec. 1. 22 MRSA §2422, sub-§§5-C and 14-A** are enacted to read:

3 **5-C. Marijuana testing facility.** "Marijuana testing facility" means a public or
4 private laboratory that:

5 A. Is licensed, certified or otherwise approved by the department in accordance with
6 rules adopted by the department to analyze contaminants in and potency and
7 cannabinoid profile of samples;

8 B. Is accredited pursuant to ISO/IEC 17025 of the International Organization for
9 Standardization by a 3rd-party accrediting body or certified, registered or accredited
10 by an organization approved by the department; and

11 C. Employs a director who holds a master's degree or higher in a relevant field of
12 science.

13 **14-A. Sample.** "Sample" means any marijuana or product containing marijuana
14 regulated under this chapter that is provided for testing or research purposes to a
15 marijuana testing facility by a dispensary, registered primary caregiver or qualifying
16 patient.

17 **Sec. 2. 22 MRSA §2423-A, sub-§1, ¶G,** as amended by PL 2013, c. 396, §3, is
18 further amended to read:

19 G. Be in the presence or vicinity of the medical use of marijuana and assist any
20 qualifying patient with using or administering marijuana; ~~and~~

21 **Sec. 3. 22 MRSA §2423-A, sub-§1, ¶H,** as enacted by PL 2013, c. 396, §4, is
22 amended to read:

23 H. Accept excess prepared marijuana from a primary caregiver in accordance with
24 subsection 2, paragraph H if nothing of value is provided to the primary caregiver;
25 and

26 **Sec. 4. 22 MRSA §2423-A, sub-§1, ¶I** is enacted to read:

27 I. Provide samples to a marijuana testing facility for testing and research purposes.

28 **Sec. 5. 22 MRSA §2423-A, sub-§2, ¶J,** as amended by PL 2013, c. 588, Pt. D,
29 §3, is further amended to read:

30 J. Use a pesticide in the cultivation of marijuana if the pesticide is used consistent
31 with federal labeling requirements, is registered with the Department of Agriculture,
32 Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section
33 607 and is used consistent with best management practices for pest management
34 approved by the Commissioner of Agriculture, Conservation and Forestry. A
35 registered primary caregiver may not in the cultivation of marijuana use a pesticide
36 unless the registered primary caregiver or the registered primary caregiver's employee
37 is certified in the application of the pesticide pursuant to section 1471-D and any
38 employee who has direct contact with treated plants has completed safety training

1 pursuant to 40 Code of Federal Regulations, Section 170.130. An employee of the
2 registered primary caregiver who is not certified pursuant to section 1471-D and who
3 is involved in the application of the pesticide or handling of the pesticide or
4 equipment must first complete safety training described in 40 Code of Federal
5 Regulations, Section 170.230; ~~and~~

6 **Sec. 6. 22 MRSA §2423-A, sub-§2, ¶K**, as reallocated by RR 2013, c. 1, §40, is
7 amended to read:

8 K. For the purpose of disposing of excess prepared marijuana, transfer prepared
9 marijuana to a registered dispensary for reasonable compensation. The transfer of
10 prepared marijuana by a primary caregiver to one or more dispensaries under this
11 paragraph is limited to a registered primary caregiver. A registered primary caregiver
12 may not transfer more than 2 pounds of excess prepared marijuana for reasonable
13 compensation under this paragraph in a calendar year. A primary caregiver who
14 transfers prepared marijuana pursuant to this paragraph does not by virtue of only that
15 transfer qualify as a member of a collective;

16 **Sec. 7. 22 MRSA §2423-A, sub-§2, ¶¶L and M** are enacted to read:

17 L. If the primary caregiver is a registered primary caregiver, provide samples to a
18 marijuana testing facility for testing and research purposes; and

19 M. If the primary caregiver is a registered primary caregiver, own and operate a
20 marijuana testing facility for research and development purposes.

21 **Sec. 8. 22 MRSA §2423-A, sub-§3, ¶A**, as amended by PL 2013, c. 374, §1, is
22 further amended to read:

23 A. A patient who elects to cultivate marijuana plants must keep the plants in an
24 enclosed, locked facility unless the plants are being transported because the patient is
25 moving or taking the plants to the patient's own property in order to cultivate them.
26 Access to the cultivation facility is limited to the patient, except that emergency
27 services personnel, an employee of a marijuana testing facility or a person who needs
28 to gain access to the cultivation facility in order to perform repairs or maintenance or
29 to do construction may access the cultivation facility to provide those professional
30 services while under the direct supervision of the patient.

31 **Sec. 9. 22 MRSA §2423-A, sub-§10** is enacted to read:

32 **10. Marijuana testing facility.** The following provisions apply to marijuana testing
33 facilities.

34 A. A marijuana testing facility may receive and possess samples from qualifying
35 patients, registered primary caregivers and dispensaries to provide testing of the
36 samples for the cannabinoid profile and potency of the samples and for contaminants
37 in the samples, including but not limited to mold, mildew, heavy metals, plant-growth
38 regulators and illegal pesticides.

1 B. An employee of a marijuana testing facility may have access to cultivation
2 facilities pursuant to subsection 3, paragraph A and section 2428, subsection 6,
3 paragraph I.

4 C. A marijuana testing facility shall:

5 (1) Properly dispose of medical marijuana residue in compliance with
6 department rules;

7 (2) Maintain testing results as part of its business books and records; and

8 (3) Operate in accordance with security rules adopted by the department.

9 D. The department shall adopt routine technical rules as defined in Title 5, chapter
10 375, subchapter 2-A governing marijuana testing facilities, including, but not limited
11 to:

12 (1) The form and content of marijuana labeling;

13 (2) Standards for the testing of samples by marijuana testing facilities;

14 (3) Requirements relating to the size of samples and collection methods for
15 samples;

16 (4) Marijuana testing facility director qualification requirements;

17 (5) Required security for marijuana testing facilities; and

18 (6) Requirements for the licensing, certifying or other approval of marijuana
19 testing facilities.

20 **Sec. 10. 22 MRSA §2423-E, sub-§9** is enacted to read:

21 **9. Labels.** If a registered primary caregiver affixes a label on the packaging of any
22 marijuana or product containing marijuana provided to a patient and that label includes
23 the cannabinoid profile or potency of the marijuana or product containing marijuana, the
24 label must be verified by a marijuana testing facility.

25 **Sec. 11. 22 MRSA §2428, sub-§6, ¶I,** as amended by PL 2013, c. 501, §2, is
26 further amended to read:

27 I. All cultivation of marijuana must take place in an enclosed, locked facility unless
28 the marijuana plants are being transported between the dispensary and a location at
29 which the dispensary cultivates the marijuana plants, as disclosed to the department
30 in subsection 2, paragraph A, subparagraph (3). The dispensary shall use a numerical
31 identification system to enable the dispensary to track marijuana plants from
32 cultivation to sale and to track prepared marijuana obtained pursuant to section
33 2423-A, subsection 2, paragraph H from acquisition to sale. Access to the cultivation
34 facility is limited to a cardholder who is a principal officer, board member or
35 employee of the dispensary when acting in that cardholder's official capacity, except
36 that an elected official invited by a principal officer, board member or employee for
37 the purpose of providing education to the elected official on cultivation by the
38 dispensary, emergency services personnel, an employee of a marijuana testing facility
39 or a person who needs to gain access to the cultivation facility in order to perform

1 repairs or maintenance or to do construction may access the cultivation facility to
2 provide professional services while under the direct supervision of a cardholder who
3 is a principal officer, board member or employee of the dispensary.

4 **Sec. 12. 22 MRSA §2428, sub-§6, ¶¶M and N** are enacted to read:

5 M. A dispensary may provide samples to a marijuana testing facility for testing and
6 research purposes.

7 N. A dispensary may own and operate a marijuana testing facility for research and
8 development purposes.

9 **Sec. 13. 22 MRSA §2428, sub-§12** is enacted to read:

10 **12. Labels.** If a dispensary affixes a label on the packaging of any marijuana or
11 product containing marijuana provided to a patient and that label includes the
12 cannabinoid profile or potency of the marijuana or product containing marijuana, the
13 label must be verified by a marijuana testing facility.

14 **Sec. 14. Rules.** By December 31, 2015, the Department of Health and Human
15 Services shall adopt rules pursuant to the Maine Revised Statutes, Title 22, section
16 2423-A, subsection 10, paragraph D.

17 **SUMMARY**

18 This bill allows for the operation of marijuana testing facilities. These facilities may
19 possess marijuana regulated under the Maine Medical Use of Marijuana Act.
20 Dispensaries and registered primary caregivers may own and operate marijuana testing
21 facilities for research and development purposes. If a label for medical marijuana refers
22 to potency or cannabinoid profile, the label must be verified by a marijuana testing
23 facility.