

MAINE STATE LEGISLATURE

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5/18/17
R.O.S.

L.D. 243

Date: 5/18/17

Minority

(Filing No. H-222)

**JOINT SELECT COMMITTEE ON MARIJUANA LEGALIZATION
IMPLEMENTATION**

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "B" to H.P. 176, L.D. 243, Bill, "An Act To Change the Oversight Agency for Recreational Marijuana from the Department of Agriculture, Conservation and Forestry to the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations and To Allocate Funds for Implementation"

Amend the bill by striking out the title and substituting the following:

'An Act To Provide Oversight of the Marijuana Legalization Act by the Department of Agriculture, Conservation and Forestry and the Department of Administrative and Financial Services and To Allocate Funds for Implementation'

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. 5 MRSA §281-A is enacted to read:

§281-A. State licensing authority for retail purposes

The Department of Administrative and Financial Services shall serve as the state licensing authority for retail purposes under Title 7, section 2444-A, subsection 2.

Sec. 2. 7 MRSA §1-C is enacted to read:

§1-C. State licensing authority for agricultural purposes

The department shall serve as the state licensing authority for agricultural purposes under section 2444-A, subsection 1.

Sec. 3. 7 MRSA §2442, sub-§§7 and 9, as enacted by IB 2015, c. 5, §1, are repealed.

Sec. 4. 7 MRSA §2442, sub-§9-A is enacted to read:

9-A. Disqualifying drug offense. "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for 5 years or more. "Disqualifying drug offense" does not include an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed at least 10 years prior to application for licensure or an offense that consisted of conduct that is permitted under this chapter.

Sec. 5. 7 MRSA §2442, sub-§44, as enacted by IB 2015, c. 5, §1, is repealed and the following enacted in its place:

44. State licensing authority. "State licensing authority" means:

A. The Department of Agriculture, Conservation and Forestry for all matters related to the regulation and licensure of marijuana cultivation, preparation, manufacturing, testing, packaging and labeling; and

B. The Department of Administrative and Financial Services for all matters related to the regulation, licensing and distribution for retail purposes of retail marijuana and retail marijuana products.

Sec. 6. 7 MRSA §2444, as amended by PL 2017, c. 1, §6, is repealed.

Sec. 7. 7 MRSA §2444-A is enacted to read:

§2444-A. State licensing authorities

1. Department of Agriculture, Conservation and Forestry licensing authority for regulation and licensure of marijuana cultivation, preparation, manufacturing, testing, packaging and labeling. The Department of Agriculture, Conservation and Forestry, referred to in this subsection as "the department," is the state licensing authority for agricultural purposes and has jurisdiction over marijuana cultivation, including, but not limited to, all aspects of marijuana seeds, clones, seedlings and plants and use of pesticides and harvesting and storage; the preparation of marijuana; retail marijuana manufacturing and retail marijuana products manufacturing; the testing of marijuana, retail marijuana and retail marijuana products; and the packaging and labeling of marijuana, retail marijuana and retail marijuana products. The Commissioner of Agriculture, Conservation and Forestry may employ officers and employees as are determined to be necessary.

A. The department may:

(1) Grant or refuse licenses for the cultivation, preparation, manufacturing, testing, packaging and labeling of marijuana, retail marijuana and retail marijuana products as provided by this chapter;

(2) Suspend, fine, restrict or revoke licenses issued under subparagraph (1) upon a violation of this chapter or any rule adopted pursuant to this chapter; and

(3) Impose any penalty authorized by this chapter or any rule adopted pursuant to this chapter.

B. The department shall adopt rules for the proper regulation and control of the cultivation, preparation, manufacturing, testing, packaging and labeling of marijuana,

1 retail marijuana and retail marijuana products and for the enforcement of this chapter
 2 as it relates to the jurisdiction of the department as state licensing authority for
 3 agricultural purposes and shall amend rules as necessary. For the purpose of
 4 adopting rules pursuant to this paragraph, the Commissioner of Agriculture,
 5 Conservation and Forestry may delegate rule-making authority granted under this
 6 paragraph to the Commissioner of Administrative and Financial Services, the
 7 Commissioner of Labor or the Commissioner of Public Safety if the Commissioner of
 8 Agriculture, Conservation and Forestry determines that the expertise and resources of
 9 that department would be beneficial in the development of the rules and the
 10 enforcement of those rules. These rules are major substantive rules pursuant to Title
 11 5, chapter 375, subchapter 2-A. Rules must address but are not limited to the
 12 following:

13 (1) The hearing of contested state license denials at a public hearing, employing
 14 full due process, including subpoena power, the taking of oaths, the calling of
 15 witnesses and maintaining the confidentiality of customer records. Provision
 16 must be made for the conduct of appeal hearings following license actions
 17 including but not limited to the denial of a license renewal or of an initial license
 18 and license revocation and suspension and for hearings contesting the imposition
 19 of a fine;

20 (2) The development of such forms, licenses, identification cards and
 21 applications as necessary for the administration of this chapter or of any of the
 22 rules adopted under this chapter;

23 (3) The preparation and transmission annually, in the form and manner
 24 prescribed by this chapter, of a report in collaboration with the Department of
 25 Administrative and Financial Services to the Legislature accounting for the
 26 efficient discharge of all responsibilities assigned by law or rules to the
 27 department as state licensing authority for agricultural purposes and to the
 28 Department of Administrative and Financial Services as state licensing authority
 29 for retail purposes;

30 (4) Procedures consistent with this chapter for the issuance, renewal, suspension
 31 and revocation of licenses to operate retail marijuana cultivation facilities, retail
 32 marijuana products manufacturing facilities and retail marijuana testing facilities;

33 (5) Limits on the concentration of THC and other cannabinoids per serving in
 34 any retail marijuana products;

35 (6) Qualifications for licensure, including, but not limited to, the requirement for
 36 a fingerprint-based criminal history record check for all owners, officers,
 37 managers, employees and other support staff of retail marijuana cultivation
 38 facilities, retail marijuana products manufacturing facilities and retail marijuana
 39 testing facilities licensed pursuant to this chapter;

40 (7) Security requirements for any licensed premises under the jurisdiction of the
 41 department as state licensing authority for agricultural purposes under this
 42 chapter including, at a minimum, lighting, physical security, alarm requirements
 43 and other minimum procedures for internal control as determined necessary by

the department as state licensing authority for agricultural purposes to properly administer and enforce the provisions of this chapter, including reporting requirements for changes, alterations or modifications to the licensed premises. Security requirements may not be unreasonably impracticable; and

(8) Securing and recording permission for a local fire department or the State Fire Marshal to conduct an annual fire inspection of a retail marijuana cultivation facility.

C. For the purposes of the effective administration and enforcement of this chapter, the department and the Department of Administrative and Financial Services shall work cooperatively to ensure that rules are adopted and that the chapter is implemented and enforced effectively.

2. Department of Administrative and Financial Services licensing authority for regulation of the distribution of retail marijuana and retail marijuana products and licensure of retail marijuana stores and retail marijuana social clubs. The Department of Administrative and Financial Services, referred to in this subsection as "the department," is the state licensing authority for retail purposes and has jurisdiction over retail marijuana distribution, retail marijuana stores and retail marijuana social clubs. The Commissioner of Administrative and Financial Services may employ such officers and employees as the commissioner determines to be necessary. The department may:

A. Grant or refuse licenses for retail marijuana stores and retail marijuana social clubs as provided by this chapter;

B. Regulate the distribution of retail marijuana and retail marijuana products;

C. Suspend, fine, restrict or revoke licenses under paragraph E, subparagraph (1) upon a violation of this chapter or any rule adopted pursuant to this chapter;

D. Impose any penalty authorized by this chapter or any rule adopted pursuant to this chapter;

E. The department shall adopt rules for the proper regulation and control of the distribution, tracking and sale of retail marijuana and retail marijuana products, for the licensing and operation of retail marijuana stores and retail marijuana social clubs and for the enforcement of this chapter as it relates to the jurisdiction of the department for retail purposes and shall amend rules as necessary. For the purpose of adopting rules pursuant to this paragraph, the Commissioner of Administrative and Financial Services may delegate rule-making authority granted under this paragraph to the Commissioner of Agriculture, Conservation and Forestry, the Commissioner of Labor or the Commissioner of Public Safety if the Commissioner of Administrative and Financial Services determines that the expertise and resources of that department would be beneficial in the development of the rules and the enforcement of those rules. These rules are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. Rules must address but are not limited to the following:

(1) The hearing of an appeal of the denial to issue a license or renew a license issued pursuant to this subsection at a public hearing, employing full due process, including subpoena power, the taking of oaths, the calling of witnesses and maintaining the confidentiality of customer records. Provision must be made for

1 the conduct of appeal hearings following license actions including but not limited
2 to the denial of a license renewal or of an initial license and license revocation
3 and suspension and hearings for contesting the imposition of a fine;

4 (2) The development of such forms, licenses, identification cards and
5 applications as necessary for the administration of this chapter or of any of the
6 rules adopted under this chapter;

7 (3) The preparation and transmission annually, in the form and manner
8 prescribed by this chapter, of a report in collaboration with the Department of
9 Agriculture, Conservation and Forestry to the Legislature accounting for the
10 efficient discharge of all responsibilities assigned by law or rules to the
11 department and the Department of Agriculture, Conservation and Forestry;

12 (4) Procedures consistent with this chapter for the issuance, renewal, suspension
13 and revocation of licenses to operate retail marijuana stores and retail marijuana
14 social clubs;

15 (5) Qualifications for licensure, including, but not limited to, the requirement for
16 a fingerprint-based criminal history record check for all owners, officers,
17 managers, employees and other support staff of retail marijuana stores and retail
18 marijuana social clubs licensed pursuant to this chapter; and

19 (6) Security requirements for any licensed premises under the jurisdiction of the
20 department for retail purposes under this chapter including, at a minimum,
21 lighting, physical security, alarm requirements and other minimum procedures
22 for internal control as determined necessary by the department to properly
23 administer and enforce the provisions of this chapter, including reporting
24 requirements for changes, alterations or modifications to the licensed premises.
25 Security requirements may not be unreasonably impracticable; and

26 F. For the purposes of the effective administration and enforcement of this chapter,
27 the department and the Department of Agriculture, Conservation and Forestry shall
28 work cooperatively to ensure that rules are adopted and that the chapter is
29 implemented and enforced effectively.

30 **Sec. 8. 7 MRSA §2445, first ¶,** as amended by PL 2017, c. 1, §7, is further
31 amended to read:

32 Beginning February 1, 2018, the ~~state licensing authority~~ Department of Agriculture,
33 Conservation and Forestry shall establish, ~~within a specific time frame,~~ a retail marijuana
34 and retail marijuana products independent testing and certification program. This
35 program must require licensees to test retail marijuana and retail marijuana products to
36 ensure at a minimum that products sold for human consumption do not contain
37 contaminants that are injurious to health and to ensure correct labeling.

38 **Sec. 9. 7 MRSA §2445, last ¶,** as enacted by IB 2015, c. 5, §1, is amended to
39 read:

40 The establishment of an independent testing and certification program does not affect
41 the adoption of rules in section 2444 2444-A, subsection 1 or affect the implementation
42 of cultivation, production and sale of retail marijuana and retail marijuana products.

Sec. 10. 7 MRSA §2446, sub-§§2 to 4, as enacted by IB 2015, c. 5, §1, are amended to read:

2. Health and safety rules. The Each state licensing authority shall adopt health and safety rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, and standards for the manufacture of retail marijuana products ~~and~~, the cultivation of retail marijuana and the sale of retail marijuana and retail marijuana products, which must include:

A. ~~Limitations~~ By the Department of Administrative and Financial Services, limitations on the advertising and display of retail marijuana and retail marijuana products;

B. ~~Regulation~~ By both the Department of Administrative and Financial Services and the Department of Agriculture, Conservation and Forestry, regulation of the storage of, warehouses for and transportation of retail marijuana and retail marijuana products; and

C. ~~Sanitary~~ By both the Department of Administrative and Financial Services and the Department of Agriculture, Conservation and Forestry, sanitary requirements for retail marijuana establishments, including but not limited to sanitary requirements for the preparation of retail marijuana products.

3. Training for local jurisdictions and law enforcement officers. The Each state licensing authority, for the area within its jurisdiction as specified in section 2444-A, subsection 1 or 2, shall adopt rules, which are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, and processes for training local jurisdictions and law enforcement officers in the law, including the requirements for inspections, investigations, searches, seizures, forfeitures and such additional activities as may become necessary from time to time.

4. Identification cards. The following provisions govern identification cards.

A. ~~The~~ Each state licensing authority, for the area within its jurisdiction as specified in section 2444-A, subsection 1 or 2, shall adopt rules detailing the format of, and inclusion of information on, individual identification cards for owners, officers, managers, contractors, employees and other support staff of entities licensed pursuant to this chapter, including a fingerprint-based criminal history record check as may be required by the state licensing authority prior to issuing an identification card.

B. ~~The state licensing authority~~ Department of Administrative and Financial Services shall specify those forms of photo identification that a retail marijuana store may accept when verifying a sale, including but not limited to government-issued identification cards.

C. ~~The~~ Each state licensing authority, for the area within its jurisdiction as specified in section 2444-A, subsection 1 or 2, shall develop procedures for license renewals, reinstatements, initial licenses and the payment of licensing fees, as well as other matters that are necessary for the fair, impartial and comprehensive administration of this chapter.

D. Rules adopted pursuant to this subsection are routine technical rules, pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 11. 7 MRSA §2447, as amended by PL 2017, c. 1, §9, is further amended to read:

§2447. License application and issuance

Beginning February 1, 2018, an application for a license under the provisions of this chapter must be made to the ~~state licensing authority~~ Department of Agriculture, Conservation and Forestry for licenses related to agricultural matters, as specified in section 2444-A, subsection 1, and to the Department of Administrative and Financial Services for licenses related to the retail sale of marijuana and marijuana products, as specified in section 2444-A, subsection 2, on forms prepared and furnished by the applicable state licensing authority and must set forth such information as the applicable state licensing authority may require to enable the ~~that~~ state licensing authority to determine whether a license should be granted. The information must include the name and address of the applicant and the names and addresses of the applicant's officers, directors or managers. Each application must be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe. The state licensing authority may issue a license to an applicant pursuant to this section upon completion of the applicable criminal history record check associated with the application. The license is conditioned upon municipal approval. An applicant is prohibited from operating a retail marijuana establishment or retail marijuana social club without ~~state licensing authority~~ Department of Administrative and Financial Services and municipal approval. If the applicant does not receive municipal approval within one year from the date of ~~state licensing authority~~ Department of Administrative and Financial Services approval, the license expires and may not be renewed. If an application is not approved by the municipality, the ~~state licensing authority~~ Department of Administrative and Financial Services shall revoke the license.

1. Qualifications. The following provisions govern the qualifications for licensure ~~by the Department of Administrative and Financial Services, referred to in this subsection as "the department,"~~ as a retail marijuana establishment or retail marijuana social club. A person is not qualified to conduct licensed activities until the required annual fee has been paid.

A. An applicant who is a natural person must be at least 21 years of age. If an applicant is a corporation, all members of the board must comply with this paragraph.

B. A person who has been convicted of a disqualifying drug offense may not be a licensee. ~~For purposes of this paragraph, "disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for 5 years or more. "Disqualifying drug offense" does not include an offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years prior to application for licensure or an offense that consisted of conduct that is permitted under this chapter.~~

C. A person who has had a license for a retail marijuana establishment or retail marijuana social club revoked may not be a licensee.

1 D. A sheriff, deputy sheriff, police officer, prosecuting officer or an officer or
2 employee of the either state licensing authority or a municipality ~~is ineligible to~~
3 ~~become~~ may not be a licensee.

4 E. The ~~state licensing authority~~ department shall investigate all applicants for
5 compliance with this chapter prior to issuing a license.

6 F. First priority for licensure must be given to registered caregivers who have been
7 continuously registered with the Department of Health and Human Services pursuant
8 to the Maine Medical Use of Marijuana Act or who have experience serving as a
9 principal officer or board member of a nonprofit medical dispensary registered with
10 the Department of Health and Human Services pursuant to the Maine Medical Use of
11 Marijuana Act. ~~If an applicant, either a business entity or an individual, owns, has a~~
12 ~~financial interest in or controls the management of more than one dispensary in this~~
13 ~~State, that applicant may receive preference for only one license in each license class.~~
14 ~~As long as there are other preferred applicants for any or all license classes an~~
15 ~~applicant who owns, has a financial interest in or controls the management of more~~
16 ~~than one dispensary in this State is not eligible for multiple licenses in any class.~~
17 ~~Preference must be given to an applicant who has at least 3 medical marijuana~~
18 ~~caregiver registrations when determining which applicants receive licenses.~~

19 G. The ~~state licensing authority~~ department shall accept applications from registered
20 caregivers and principal officers or board members of registered dispensaries who
21 have continuously registered with the Department of Health and Human Services
22 pursuant to the Maine Medical Use of Marijuana Act.

23 H. The ~~state licensing authority~~ department shall adopt rules, which are major
24 substantive rules pursuant to Title 5, chapter 375, subchapter 2-A, for a streamlined
25 application process for registered caregivers and principal officers or board members
26 of dispensaries registered with the Department of Health and Human Services
27 pursuant to the Maine Medical Use of Marijuana Act, which must include an initial
28 site inspection confirming compliance with this chapter.

29 I. If an applicant, either a business entity or an individual, owns, has a financial
30 interest in or controls the management of more than one dispensary in this State, that
31 applicant may receive preference for only one license in each license class. As long
32 as there are other preferred applicants for any or all license classes, an applicant who
33 owns, has a financial interest in or controls the management of more than one
34 dispensary in this State is not eligible for multiple licenses in any class.

35 J. Preference must be given to an applicant who has at least 3 medical marijuana
36 caregiver registrations when determining which applicants receive licenses.

37 **2. Investigation of qualifications.** In investigating the qualifications of an applicant
38 or a licensee, the state licensing authority for that applicant or licensee and municipality
39 may have access to criminal history record information furnished by a law enforcement
40 agency subject to any restrictions imposed by that agency. In the event the state licensing
41 authority or municipality considers the applicant's criminal history record, the state
42 licensing authority or municipality shall also consider any information provided by the
43 applicant regarding such criminal history record, including, but not limited to, evidence
44 of rehabilitation, character references and educational achievements, especially those

items pertaining to the time between the applicant's last criminal conviction and the consideration of the application for a license.

At the time of filing an application for issuance of a retail marijuana establishment or retail marijuana social club license, an applicant shall submit a set of the applicant's fingerprints and personal history information concerning the applicant's qualifications for a license on forms prepared by the ~~state licensing authority~~ Department of Administrative and Financial Services. The ~~state licensing authority~~ Department of Administrative and Financial Services shall submit the fingerprints and the municipality may forward fingerprints to the State Bureau of Investigation for criminal history background information. The ~~state licensing authority~~ Department of Administrative and Financial Services shall also forward the fingerprints to the Federal Bureau of Investigation for the purpose of conducting a federal fingerprint-based criminal history record check. The ~~state licensing authority~~ Department of Administrative and Financial Services may acquire a name-based criminal history record check for an applicant or a licensee who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for state licensing purposes may request that the fingerprints on file be used. The state licensing authority shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a license pursuant to this chapter. The state licensing authority or municipality may verify any of the information an applicant is required to submit.

3. Applications; issuance. The following provisions govern applications for and issuance of a retail marijuana establishment or retail marijuana social club license by the Department of Administrative and Financial Services, referred to in this subsection as "the department."

A. An applicant shall file an application in the form required by the ~~state licensing authority~~ department for the type of license sought, along with the application fee as set by the state licensing authority.

B. An applicant may apply for and be granted more than one type of license except that a person licensed as a retail marijuana testing facility may not hold any other retail marijuana establishment license. Registered caregivers and registered dispensaries who have held a registration in good standing for 2 years by the date of the application must be given priority in the granting of licenses for a retail marijuana cultivation facility, retail marijuana products manufacturing facility or retail marijuana store license. The ~~state licensing authority~~ department shall begin accepting and processing applications by 30 days after the adoption of rules under section 2444 2444-A, subsection 2. If after 90 days those applications do not meet the maximum square footage allotment set by this chapter, the ~~state licensing authority~~ department may begin accepting and processing applications by all other qualified applicants.

C. The ~~state licensing authority~~ department shall issue or renew a license to operate a retail marijuana establishment or retail marijuana social club to an applicant who meets the requirements of the ~~state licensing authority~~ department, which must include a review of the site plan, operating plan and relevant experience in the

marijuana industry in this State, as set forth in rule, within 90 days of the date of receipt of the application unless:

(1) The ~~state licensing authority~~ department finds the applicant is not in compliance with this section or rules adopted by the state licensing authority;

(2) The ~~state licensing authority~~ department is notified by the relevant municipality that the applicant is not in compliance with an ordinance, rule or regulation in effect at the time of application; or

(3) The number of retail marijuana establishments or retail marijuana social clubs allowed in the municipality has been limited pursuant to local ordinance or is limited by subsection 7 and the ~~state licensing authority~~ department has already licensed the maximum number of retail marijuana establishments or retail marijuana social clubs allowed in the municipality for the class of license that is sought.

D. The following provisions govern the situation when more than one application is received by the ~~state licensing authority~~ department for establishment of a retail marijuana establishment or retail marijuana social club in the same municipality.

(1) If a greater number of applications are received from qualified applicants to operate a retail marijuana store in a municipality than are allowed under the limits enacted by that municipality pursuant to subsection 4, the ~~state licensing authority~~ department shall solicit and consider input from the municipality as to the municipality's preferences for licensure. Within 180 days of the date the first application is received, the ~~state licensing authority~~ department shall issue the maximum number of applicable licenses.

(2) In any competitive application process to determine which applicants receive licenses for any class of license, the ~~state licensing authority~~ department shall give first preference to an applicant who has at least 2 years of previous experience cultivating marijuana in compliance with Title 22, section 2423 and who has been continuously registered with the Department of Health and Human Services pursuant to the Maine Medical Use of Marijuana Act. Preference must be given to an applicant who has 3 medical marijuana caregiver registrations when determining which applicants receive licenses.

E. The ~~state licensing authority~~ department may not grant a license for a retail marijuana establishment to a licensee who has already received a license to operate the same type of retail marijuana establishment if doing so would prevent another qualified applicant from receiving a license. The ~~state licensing authority~~ department may not grant a license for a retail marijuana social club to a licensee who has already received a license to operate a retail marijuana social club if doing so would prevent another qualified applicant from receiving a license.

4. Limitation on number of retail marijuana stores. The ~~state licensing authority~~ Department of Administrative and Financial Services may not limit the total number of retail marijuana stores in this State. A municipality may regulate the number of retail marijuana stores and the location and operation of retail marijuana establishments and

1 retail marijuana social clubs and may prohibit the operation of retail marijuana
2 establishments and retail marijuana social clubs within its jurisdiction.

3 **5. Limitations on retail marijuana cultivation.** The ~~state licensing authority~~
4 Department of Agriculture, Conservation and Forestry may establish limitations upon
5 retail marijuana cultivation through one or more of the following methods:

6 A. Placing or modifying a limit on the number of licenses that it issues, by class or
7 overall, but in placing or modifying the limits, the ~~state licensing authority~~
8 Department of Agriculture, Conservation and Forestry shall consider the reasonable
9 availability of new licenses after a limit is placed or modified; and

10 B. Placing or modifying a limit on the amount of production permitted by a retail
11 marijuana cultivation facility license or class of licenses based upon some reasonable
12 metric or set of metrics, including, but not limited to, previous months' sales, pending
13 sales or other reasonable metric as determined by the state licensing authority.

14 **6. Limitation on retail marijuana cultivation facility size.** The amount of space
15 approved for marijuana cultivation at retail marijuana cultivation facilities is limited to
16 800,000 square feet of plant canopy, unless the ~~state licensing authority~~ Department of
17 Agriculture, Conservation and Forestry, referred to in this subsection as "the department,"
18 determines that a greater amount may be needed to ensure an adequate supply to meet
19 demand for various strains of marijuana throughout the State. An applicant must
20 designate on the applicant's operating plan the size category of the licensed premises and
21 the amount of actual square footage in the applicant's licensed premises that will be
22 designated as plant canopy.

23 The ~~state licensing authority~~ department shall license 2 types of retail marijuana
24 cultivation facilities, those with 3,000 square feet or less of plant canopy and those with
25 more than 3,000 square feet of plant canopy. The ~~state licensing authority~~ department
26 shall license marijuana cultivation at retail marijuana cultivation facilities by unit blocks
27 of 10 feet by 10 feet, or 100 square feet, of plant canopy, with 40% of all licenses issued
28 going to licensees of 30 unit blocks or less. The maximum amount of unit blocks allowed
29 to a single licensee is 300.

30 An applicant who applies for a retail marijuana cultivation facility license for a facility
31 with more than 3,000 square feet of plant canopy but is not licensed by the ~~state licensing~~
32 authority department may be considered for a license for a facility with 3,000 square feet
33 or less of plant canopy.

34 No more than 6 retail marijuana cultivation facilities or more than 300 unit blocks of
35 plant canopy may be located on the same parcel of property.

36 The ~~state licensing authority~~ department may reduce the number of unit blocks a retail
37 marijuana cultivation facility is authorized to cultivate if 50% or fewer of the unit blocks
38 a facility is authorized to cultivate are not used by the end of the first year of operation.

39 **7. Restrictions on applications for licenses.** The A state licensing authority may
40 not approve an application for the issuance of a license pursuant to this chapter:

41 A. If the application for the license concerns a location that is the same as or within
42 1,000 feet of a location for which, within the 2 years immediately preceding the date

of the application, the state licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location; or

B. Until it is established that the applicant is in or will be entitled to possession of the licensed premises for which application is made under a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises.

Sec. 12. 7 MRSA §2448, sub-§1, as enacted by IB 2015, c. 5, §1, is repealed and the following enacted in its place:

1. State licensing authority may issue license. For the purpose of regulating the agricultural and retail aspects of marijuana as described in this chapter, each state licensing authority in its discretion, upon receipt of an application in the prescribed form, may issue and grant, subject to the provisions and restrictions provided by this chapter, to the applicant a license from one or more of the following classes.

A. The Department of Agriculture, Conservation and Forestry may issue the following licenses:

(1) Retail marijuana cultivation facility license;

(2) Retail marijuana products manufacturing facility license;

(3) Retail marijuana testing facility license; and

(4) Occupational licenses and registrations for owners, managers, operators, employees, contractors and other support staff employed at, working in or having access to restricted access areas of the premises licensed pursuant to this paragraph, as determined by the department.

B. The Department of Administrative and Financial Services may issue the following licenses:

(1) Retail marijuana store license;

(2) Retail marijuana social club license; and

(3) Occupational licenses and registrations for owners, managers, operators, employees, contractors and other support staff employed at, working in or having access to restricted access areas of the premises licensed pursuant to this paragraph, as determined by the department.

Sec. 13. 7 MRSA §2448, sub-§4, as enacted by IB 2015, c. 5, §1, is amended to read:

4. Retail marijuana cultivation facility license. The state licensing authority Department of Agriculture, Conservation and Forestry shall create a statewide licensure class system for retail marijuana cultivation facilities.

A. The following provisions govern retail marijuana cultivation facilities.

(1) A retail marijuana cultivation facility licensee is permitted to cultivate retail marijuana for sale and distribution only to licensed retail marijuana stores, retail

marijuana products manufacturing facilities, other retail marijuana cultivation facilities or retail marijuana social clubs.

(2) A retail marijuana cultivation facility may have a retail marijuana store if it is located on the same licensed premises as the retail marijuana cultivation facility. If the retail marijuana cultivation facility chooses the option to have a retail marijuana store it must meet all requirements set by the ~~state licensing authority~~ Department of Administrative and Financial Services for retail marijuana stores and the municipality in which the retail marijuana store is located. A retail marijuana store located on the licensed premises of a retail marijuana cultivation facility does not count against any municipal limits on the number of retail marijuana stores.

(3) A retail marijuana cultivation facility shall track the marijuana it cultivates from seed or immature plant to wholesale purchase. The ~~state licensing authority~~ Department of Agriculture, Conservation and Forestry may not make rules that are unreasonably impracticable concerning the tracking of marijuana from seed or immature plant to wholesale purchase.

(4) A retail marijuana cultivation facility may provide, except as required by subsection 6, a sample of its products to a retail marijuana testing facility for testing and research purposes. A retail marijuana cultivation facility shall maintain a record of what was provided to the retail marijuana testing facility, the identity of the retail marijuana testing facility and the testing results.

B. Retail marijuana may be transported between a licensed retail marijuana cultivation facility and retail marijuana stores, other retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities.

Sec. 14. 7 MRSA §2448, sub-§5, ¶D, as enacted by IB 2015, c. 5, §1, is repealed.

Sec. 15. 7 MRSA §2448, sub-§10, as enacted by IB 2015, c. 5, §1, is amended to read:

10. License fees. ~~The~~ Each state licensing authority shall determine the revenue needed to set up the licensing and enforcement operations of ~~the department that state~~ licensing authority, as specified in section 2444-A, subsection 1 or 2, and set the fees applicable to the ~~categories as outlined~~ licenses and registration authorized in subsection 1 within the ranges specified in the following schedule:

A. Retail marijuana store license, \$250 to \$2,500, with a \$10 to \$250 nonrefundable application fee;

B. Retail marijuana cultivation facility license, \$10 to \$100 per unit block, with a \$10 to \$250 nonrefundable application fee;

C. Retail marijuana products manufacturing facility license, \$100 to \$1,000, with a \$10 to \$250 nonrefundable application fee;

D. Retail marijuana testing facility license, \$500, with a \$10 to \$250 nonrefundable application fee;

E. Retail marijuana social club license, \$250 to \$2,500, with a \$10 to \$250 nonrefundable application fee; and

F. Occupational licenses and registrations for owners, managers, operators, employees, contractors and other support staff employed at, working in or having access to restricted access areas of the ~~licensed~~ premises licensed by that state licensing authority, as determined by ~~the~~ that state licensing authority.

Sec. 16. 7 MRSA §2448, sub-§20 is enacted to read:

20. Investigation of unlawful activity. This chapter may not be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a retail marijuana establishment or retail marijuana social club. A law enforcement agency may run a Maine criminal history record check of a licensee or an employee of a licensee during an investigation of unlawful activity related to retail marijuana and retail marijuana products.

Sec. 17. 7 MRSA §2449, sub-§2, as enacted by IB 2015, c. 5, §1, is amended to read:

2. Municipal approval required. A retail marijuana establishment or retail marijuana social club may not operate until it is licensed by the applicable state licensing authority pursuant to this chapter and approved by the municipality in which it is located. If an application is denied by the municipality, the licensee has 90 days to locate and obtain legal interest in another property in a municipality that approves of the retail marijuana establishment or retail marijuana social club before the license is revoked.

Sec. 18. 7 MRSA §2450, last ¶, as enacted by IB 2015, c. 5, §1, is amended to read:

For a transfer of ownership, a licensee shall apply to the state licensing authority that issued the license for which a transfer is being sought on forms prepared and furnished by ~~the~~ that state licensing authority. Upon receipt of an application for transfer of ownership, the state licensing authority shall, within 7 days, submit a copy of the application to the appropriate municipality to determine whether the transfer complies with any local restriction on transfer of ownership. In determining whether to permit a transfer of ownership, the state licensing authority shall consider only the requirements of this chapter, any rules adopted by the state licensing authority and any other local restrictions. The municipality may hold a hearing on the application for transfer of ownership. The municipality may not hold a hearing pursuant to this section until the municipality has posted a notice of hearing in the manner described in section 2449, subsection 5 on the licensed premises for a period of 10 days and has provided notice of the hearing to the applicant at least 10 days prior to the hearing. Any transfer of ownership hearing by the state licensing authority must be held in compliance with the requirements specified for a municipality in this section.

Sec. 19. 7 MRSA §2451, sub-§1, as enacted by IB 2015, c. 5, §1, is amended to read:

1 **1. Notice of new owner, officer, manager or employee.** A retail marijuana
2 establishment or retail marijuana social club shall notify the appropriate state licensing
3 authority in writing of the name, address and date of birth of an owner, officer, manager
4 or employee before the new owner, officer, manager or employee begins managing,
5 owning or associating with the establishment or club. The owner, officer, manager or
6 employee must pass a fingerprint-based criminal history record check as required by the
7 state licensing authority and obtain the required identification card prior to being
8 associated with, managing, owning or working at the establishment or club.

9 **Sec. 20. 7 MRSA §2451, sub-§7,** as enacted by IB 2015, c. 5, §1, is amended to
10 read:

11 **7. Relocation of licensed premises.** A licensee may move the permanent location
12 of licensed premises to any other place in this State once permission to do so is granted
13 by the state licensing authority that issued the license for those premises and municipality
14 where the retail marijuana establishment or retail marijuana social club proposes to
15 relocate. Upon receipt of an application for change of location, the state licensing
16 authority shall, within 7 days, submit a copy of the application to the municipality to
17 determine whether the transfer complies with all local restrictions on change of location.
18 In permitting a change of location, the municipality where the retail marijuana
19 establishment or retail marijuana social club proposes to relocate shall consider all
20 reasonable restrictions that are or may be placed upon the new location by the governing
21 board of the municipality. Any such change in location must be in accordance with all
22 requirements of this chapter and rules adopted pursuant to this chapter.

23 **Sec. 21. 7 MRSA §2455** is enacted to read:

24 **§2455. Retail Marijuana Regulatory Coordination Fund**

25 The Retail Marijuana Regulatory Coordination Fund, referred to in this section as
26 "the fund," is established as a dedicated, nonlapsing other special revenue fund in the
27 Department of Administrative and Financial Services for use by the Department of
28 Administrative and Financial Services and the Department of Agriculture, Conservation
29 and Forestry. The fund must be administered and used by the commissioners of both
30 departments for the purposes of adopting rules as required by this chapter and by any
31 department of State Government that is authorized to adopt rules under this chapter. The
32 commissioners of both departments may expend funds to enter into contracts with
33 consultants and employ staff, as determined necessary by the commissioners, conduct
34 meetings with stakeholders and conduct other activities related to the operation of this
35 chapter.

36 **Sec. 22. Progress reports.** The Commissioner of Administrative and Financial
37 Services and the Commissioner of Agriculture, Conservation and Forestry each shall
38 submit written reports to the Joint Select Committee on Marijuana Legalization
39 Implementation beginning 30 days after the effective date of this section and continuing
40 every 30 days until February 1, 2018. The reports must indicate the amounts, dates and
41 purposes of all expenditures and the fund balances available to each department as of the
42 date of the report and must include a progress report on adopting rules as required by the
43 Maine Revised Statutes, Title 7, section 2444-A.

Sec. 23. Transfer from General Fund unappropriated surplus; Retail Marijuana Regulatory Coordination Fund, Other Special Revenue Funds account; fiscal year 2016-17. Notwithstanding any other provision of law, the State Controller shall transfer \$1,100,000 from the General Fund unappropriated surplus to the Retail Marijuana Regulatory Coordination Fund program, Other Special Revenue Funds account within the Department of Administrative and Financial Services no later than 10 days after the effective date of this Act.

Sec. 24. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Retail Marijuana Regulatory Coordination Fund N233

Initiative: Allocates funds to establish the Retail Marijuana Regulatory Coordination Fund.

OTHER SPECIAL REVENUE FUNDS	2016-17	2017-18	2018-19
All Other	\$1,100,000	\$0	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$1,100,000</u>	<u>\$0</u>	<u>\$0</u>

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS

	2016-17	2017-18	2018-19
OTHER SPECIAL REVENUE FUNDS	\$1,100,000	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	<u>\$1,100,000</u>	<u>\$0</u>	<u>\$0</u>

LEGISLATURE

Legislature 0081

Initiative: Appropriates funds on a one-time basis to the Legislature to provide resources for the Joint Select Committee on Marijuana Legalization Implementation for the purposes of covering the costs of consultant services and necessary travel and expenses and any other purposes determined to be appropriate by the Joint Select Committee on Marijuana Legalization Implementation to assist the committee in the performance of its duties.

1	GENERAL FUND	2016-17	2017-18	2018-19
2	All Other	\$500,000	\$0	\$0
3				
4	GENERAL FUND TOTAL	<u>\$500,000</u>	<u>\$0</u>	<u>\$0</u>
5	LEGISLATURE			
6	DEPARTMENT TOTALS	2016-17	2017-18	2018-19
7				
8	GENERAL FUND	\$500,000	\$0	\$0
9				
10	DEPARTMENT TOTAL - ALL	<u>\$500,000</u>	<u>\$0</u>	<u>\$0</u>
11	FUNDS			
12	SECTION TOTALS	2016-17	2017-18	2018-19
13				
14	GENERAL FUND	\$500,000	\$0	\$0
15	OTHER SPECIAL REVENUE	\$1,100,000	\$0	\$0
16	FUNDS			
17				
18	SECTION TOTAL - ALL FUNDS	<u>\$1,600,000</u>	<u>\$0</u>	<u>\$0</u>
19				

SUMMARY

This amendment is the minority report of the committee.

The amendment strikes the bill and changes the title. The amendment also does the following.

1. It provides that the Department of Administrative and Financial Services serves as the state licensing authority for retail purposes under the Marijuana Legalization Act.

2. It provides that the Department of Agriculture, Conservation and Forestry serves as the state licensing authority for agricultural purposes under the Marijuana Legalization Act.

3. It assigns to the Department of Agriculture, Conservation and Forestry licensing and regulatory jurisdiction from the point of marijuana seed, clone, seedling and plant, through cultivation, use of pesticides, harvesting, preparation of marijuana, retail marijuana manufacturing and retail marijuana products manufacturing to the testing, packaging and labeling of marijuana, retail marijuana and retail marijuana products.

4. It assigns to the Department of Administrative and Financial Services licensing and regulatory jurisdiction over retail marijuana and retail marijuana products distribution and tracking, retail marijuana stores and retail marijuana social clubs.

5. It appropriates funds for consultant services and necessary travel and expenses and other appropriate purposes as determined by the Joint Select Committee on Marijuana

1 Legalization Implementation in the amount of \$500,000 to the Legislature for use by the
2 Joint Select Committee on Marijuana Legalization Implementation and allocates funds in
3 the amount of \$1,100,000 for the Retail Marijuana Regulatory Coordination Fund. The
4 amendment establishes the Retail Marijuana Regulatory Coordination Fund and
5 authorizes its use by the Commissioner of Administrative and Financial Services and the
6 Commissioner of Agriculture, Conservation and Forestry. The amendment requires the 2
7 commissioners to report to the Joint Select Committee on Marijuana Legalization
8 Implementation beginning 30 days after the effective date and continuing every 30 days
9 until February 1, 2018. The reports must provide information on the expenditure of funds
10 and the progress on adopting required rules.

11 6. It changes the allocation of the definition of "disqualifying drug offense" from the
12 Maine Revised Statutes, Title 7, section 2447, subsection 1, paragraph B to the
13 definitions section in Title 7, section 2442, subsection 9-A to comport with drafting
14 standards.

15 7. It changes the allocation of a provision on investigation of unlawful activity from
16 Title 7, section 2448, subsection 5, paragraph D to section 2448, subsection 20.

17 **FISCAL NOTE REQUIRED**

18 **(See attached)**



128th MAINE LEGISLATURE

LD 243

LR 2223(03)

An Act To Change the Oversight Agency for Recreational Marijuana from the Department of Agriculture, Conservation and Forestry to the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations and To Allocate Funds for Implementation

Fiscal Note for Bill as Amended by Committee Amendment 'B' (H-222)

Committee: Marijuana Legalization Implementation

Fiscal Note Required: Yes

Fiscal Note

	FY 2016-17	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)					
General Fund	\$1,600,000	\$0	\$0	\$0	\$0
Appropriations/Allocations					
General Fund	\$500,000	\$0	\$0	\$0	\$0
Other Special Revenue Funds	\$1,100,000	\$0	\$0	\$0	\$0
Transfers					
General Fund	(\$1,100,000)	\$0	\$0	\$0	\$0
Other Special Revenue Funds	\$1,100,000	\$0	\$0	\$0	\$0

Fiscal Detail and Notes

This bill establishes the Retail Marijuana Regulatory Coordination Fund within the Department of Administrative and Financial Services (DAFS). It provides for a \$1,100,000 transfer from the unappropriated surplus of the General Fund in fiscal year 2016-17 to the fund and includes an Other Special Revenue Funds allocation of \$1,100,000 in fiscal year 2016-17 for use by the Bureau of Alcoholic Beverages and Lottery Operations (BABLO) within DAFS and the Department of Agriculture, Conservation and Forestry (DACF) to conduct rulemaking, enter into contracts with consultants, hire staff and implement other activities of this bill. The BABLO is assigned as the state licensing authority for retail purposes under the Marijuana Legalization Act. The bill retains the DACF as the state licensing authority for agricultural purposes under the Act. It directs both departments to adopt rules to implement the amended provisions of the Marijuana Legalization Act.

The bill also includes a one-time General Fund appropriation of \$500,000 in 2016-17 to the Legislature to provide resources for the Joint Select Committee on Marijuana Legalization Implementation for the costs of consultant services and necessary travel and expenses and any other purposes determined to be appropriate to assist the committee in the performance of its duties.

Both BABLO and DACF have indicated that additional positions are required to implement the provisions of the bill. Additional appropriations or allocations may be required in the intermediary period between this bill and the full program implementation of marijuana legalization.