

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1135

H.P. 798

House of Representatives, March 23, 2017

An Act To Strengthen the Efficacy of the Medical Marijuana Laws

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

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative CHACE of Durham.
Cosponsored by Representatives: DENNO of Cumberland, FARRIN of Norridgewock,
GILLWAY of Searsport, HARRINGTON of Sanford, PICCHIOTTI of Fairfield, PIERCE of
Dresden, SAMPSON of Alfred, Senator: LIBBY of Androscoggin.

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

2 **Sec. 1. 22 MRSA §2422, sub-§1-A**, as enacted by PL 2011, c. 407, Pt. B, §1, is
3 amended to read:

4 **1-A. Collective.** "Collective" means an association, cooperative, affiliation or group
5 of primary caregivers who ~~physically~~ assist, physically or by electronic or any other
6 means, each other in the act of cultivation, processing, marketing or distribution of
7 marijuana for medical use for the benefit of the members of the collective. There is a
8 rebuttable presumption that a collective is created if 6 or more primary registered
9 caregivers are located on the same parcel of land.

10 **Sec. 2. 22 MRSA §2423-A, sub-§2, ¶C**, as amended by PL 2013, c. 516, §6, is
11 further amended to read:

12 C. Assist a maximum of 5 patients who have designated the primary caregiver for a
13 period of one calendar month or more to cultivate marijuana for their medical use;

14 **Sec. 3. 22 MRSA §2423-A, sub-§9**, as reallocated by RR 2011, c. 1, §31, is
15 amended to read:

16 **9. Collectives prohibited.** Collectives are prohibited under this chapter. A person
17 may not form or participate in a collective. A person who violates this subsection loses
18 that person's primary caregiver registration for no less than 2 years and commits a Class
19 D crime for which a fine of not less than \$2,000 may be imposed, none of which may be
20 suspended.

21 **Sec. 4. 22 MRSA §2423-A, sub-§13** is enacted to read:

22 **13. Local regulation.** This chapter does not prohibit a political subdivision of this
23 State from limiting the number of registered primary caregivers that may operate in the
24 political subdivision or from enacting reasonable regulations applicable to primary
25 caregivers.

26 **Sec. 5. 22 MRSA §2425, sub-§8, ¶A**, as amended by PL 2013, c. 516, §13, is
27 further amended to read:

28 A. Applications and supporting information submitted by qualifying patients and
29 registered patients under this chapter, ~~including information regarding their primary~~
30 ~~caregivers and medical providers~~, are confidential.

31 **Sec. 6. 22 MRSA §2425, sub-§8, ¶B**, as amended by PL 2013, c. 516, §13, is
32 further amended to read:

33 B. Applications and supporting information submitted by ~~primary caregivers and~~
34 ~~medical providers~~ operating in compliance with this chapter are confidential.

35 **Sec. 7. 22 MRSA §2425, sub-§8, ¶B-1** is enacted to read:

36 B-1. Upon request of a law enforcement official, a town code enforcement officer, a
37 town planning board or any other local, state or law enforcement authority, a primary

1 caregiver shall disclose any of the information contained in applications and
2 supporting information submitted to the department with the exception of information
3 that identifies a qualifying patient, a registered patient and the registered patient's
4 medical provider. Information that identifies a qualifying patient, a registered patient
5 and the registered patient's medical provider is confidential.

6 **Sec. 8. 22 MRSA §2425, sub-§8, ¶F**, as amended by PL 2013, c. 516, §13, is
7 further amended to read:

8 F. Applications, supporting information and other information regarding a registered
9 dispensary are not confidential except that information that is contained within
10 dispensary information that identifies a qualifying patient, a registered patient; and
11 the registered patient's medical provider and the primary caregiver of the qualifying
12 patient or registered patient is confidential.

13 **Sec. 9. 22 MRSA §2430-A**, as amended by PL 2015, c. 475, §26, is repealed and
14 the following enacted in its place:

15 **§2430-A. Compliance**

16 **1. Compliance; testing.** The department may take action necessary to ensure
17 compliance with this chapter, including, but not limited to, obtaining, possessing and
18 performing laboratory testing on marijuana from registered primary caregivers and
19 registered dispensaries in accordance with this chapter.

20 **2. Registered primary caregiver penalties.** A registered primary caregiver who
21 fails to comply with the provisions of this chapter commits a civil violation for which a
22 fine of not less than \$200 and not more than \$500 must be adjudged. Each day of
23 violation constitutes a separate offense. A person who at the time of the violation of the
24 provisions of this chapter has been previously found to have violated this chapter
25 commits a Class D crime.

26 **3. Registered dispensary penalties.** A registered dispensary that fails to comply
27 with the provisions of this chapter commits a civil violation for which a fine of not less
28 than \$500 and not more than \$1,000 must be adjudged. Each day of violation constitutes
29 a separate offense. A registered dispensary that at the time of the violation of the
30 provisions of this chapter has been previously found to have violated this chapter
31 commits a Class D crime.

32 **4. Penalties for failure to register as primary caregiver.** A person who fails to
33 register as a primary caregiver and who engages in conduct that is only authorized for a
34 registered primary caregiver in accordance with this chapter commits a civil violation for
35 which a fine of not less than \$500 and not more than \$1,000 must be adjudged. Each day
36 of violation constitutes a separate offense. A person who at the time of the violation of
37 the provisions of this chapter has been previously found to have violated this chapter
38 commits a Class D crime.

39 **5. Penalties for failure to register as a dispensary.** A person, firm, partnership,
40 association, corporation or other entity that fails to register as a dispensary and that
41 engages in conduct that is only authorized for a registered dispensary in accordance with

1 this chapter commits a civil violation for which a fine of not less than \$1,000 and not
2 more than \$5,000 must be adjudged. Each day of violation constitutes a separate offense.
3 A person, firm, partnership, association, corporation or other entity that at the time of the
4 violation of the provisions of this chapter has been previously found to have violated this
5 chapter commits a Class D crime.

6 **6. Injunctive relief.** Notwithstanding any other remedies provided by law, the
7 Office of the Attorney General may seek an injunction to require a registered primary
8 caregiver, a registered dispensary, a person who fails to register as a primary caregiver
9 and who engages in conduct that is only authorized for a registered primary caregiver or a
10 person or entity that fails to register as a dispensary and that engages in conduct that is
11 only authorized for a registered dispensary to comply with the provisions of this chapter.
12 When an injunction has been issued in accordance with this chapter, the District Court
13 may order the registered primary caregiver, the registered dispensary or the person or
14 entity subject to the injunction to pay to the General Fund the costs of the investigation
15 incurred by the Office of the Attorney General and the costs of suit, including attorney's
16 fees.

17 **7. Violation of injunction.** The Office of the Attorney General may seek court
18 action against a registered primary caregiver, a registered dispensary or a person or entity
19 for violation of the terms of an injunction issued under subsection 6. The District Court
20 may make the necessary orders or judgments regarding violation of the terms of the
21 injunction, including but not limited to imposition of a fine of not less than \$500 nor
22 more than \$1,000 for each violation. Each day of violation constitutes a separate offense.

23 **8. Burden of proof.** The department must prove by a preponderance of the evidence
24 that the alleged violations of this chapter occurred.

25 **Sec. 10. Appropriations and allocations.** The following appropriations and
26 allocations are made.

27 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

28 **Medical Use of Marijuana Fund Z118**

29 Initiative: Provides funding for one Office Associate II position to handle additional
30 clerical duties expected with a change in the limit on the number of patients a primary
31 caregiver can serve.

32

33 OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
34 POSITIONS - LEGISLATIVE COUNT	1,000	1,000
35 Personal Services	\$44,869	\$61,854
36 All Other	\$4,709	\$6,278
37		
38 OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$49,578</u>	<u>\$68,132</u>

1 **SUMMARY**

2 This bill makes the following changes to the Maine Medical Use of Marijuana Act:

3 1. The limit on the number of qualifying patients a primary caregiver may assist is
4 clarified to be for a period of one calendar month or more;

5 2. The definition of a collective is strengthened;

6 3. The penalties for participation in a collective are enhanced;

7 4. A level of local control is provided by allowing a municipality to limit the number
8 of primary caregivers that may operate within that municipality and allowing for
9 enactment of reasonable municipal regulations applicable to primary caregivers;

10 5. The confidentiality provisions of primary caregivers are removed;

11 6. A primary caregiver and a registered dispensary are subject to fines for violations
12 of the provisions of the Act or for failing to register as a primary caregiver or dispensary;

13 7. Fines prescribed for violations of the Act are mandatory;

14 8. The Office of the Attorney General may seek an injunction to require a registered
15 primary caregiver, a registered dispensary, a person who fails to register as a primary
16 caregiver and who engages in conduct that is only authorized for a registered primary
17 caregiver or a person or entity that fails to register as a dispensary and that engages in
18 conduct that is only authorized for a registered dispensary to comply with the Act. The
19 District Court may order the registered primary caregiver, the registered dispensary or the
20 person or entity to pay the costs of the investigation and the costs of suit, including
21 attorney's fees;

22 9. The Office of the Attorney General may seek court action against a registered
23 primary caregiver, a registered dispensary or a person or entity for violation of an
24 injunction, including but not limited to imposition of a fine; and

25 10. The Department of Health and Human Services' burden of proof for a violation
26 of the Act is a preponderance of the evidence.

27 The bill also includes an appropriations and allocations section.