

MAINE STATE LEGISLATURE

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SAC
ROS

L.D. 1319

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Date: 6/15/21

(Filing No. S-328)

MINORITY

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VETERANS AND LEGAL AFFAIRS

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Reproduced and distributed under the direction of the Secretary of the Senate.

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STATE OF MAINE

6

SENATE

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130TH LEGISLATURE

8

FIRST SPECIAL SESSION

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COMMITTEE AMENDMENT "B" to S.P. 425, L.D. 1319, "An Act Regarding Registered Dispensaries and Rules under the Maine Medical Use of Marijuana Act and the Definition of "Resident" in the Marijuana Legalization Act"

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

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'An Act To Amend the Maine Medical Use of Marijuana Act'

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Amend the bill by striking out the emergency preamble and substituting the following:

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'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

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Whereas, the Department of Administrative and Financial Services' office of marijuana policy is currently proposing rules that may go into effect before the expiration of the 90-day period; and

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Whereas, the proposed rules would significantly damage the well-being and health of tens of thousands of citizens of the State by restricting their access to medical marijuana; and

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Whereas, the proposed rules would do irreparable economic harm to thousands of citizens of the State through a dramatic increase in the cost of medical marijuana; and

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Whereas, the proposed rules would do irreparable economic harm to thousands of medical marijuana caregivers and to their thousands of employees; and

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Whereas, the proposed rules would do irreparable harm to the economy of the State by destroying businesses owned and domiciled in the State to the benefit of companies that are not based in the State and will not reinvest in this State; and

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Whereas, the proposed rules would impact the most vulnerable communities in this State the hardest, including rural municipalities with aging populations; and

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Whereas, the proposed rules make major changes that warrant legislative involvement and oversight; and

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COMMITTEE AMENDMENT

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Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

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

Sec. 1. 22 MRSA §2422-A, sub-§2, as enacted by PL 2017, c. 409, Pt. E, §3, is amended to read:

2. Rulemaking. The department, after consultation with the Department of Health and Human Services, may adopt rules as necessary to administer and enforce this chapter or amend rules previously adopted pursuant to this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Before adopting rules pursuant to this subsection, the department shall consult with caregivers, registered caregivers, patients and medical providers with significant knowledge and experience certifying patients under this chapter. The department shall develop a process to use when hiring consultants to advise on rule changes related to this chapter and shall report any subsequent changes to that process to the joint standing committee of the Legislature having jurisdiction over medical use of marijuana matters.

Sec. 2. 22 MRSA §2423-A, sub-§10, ¶D, as repealed and replaced by PL 2019, c. 331, §13 and c. 354, §3, is repealed and the following enacted in its place:

D. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A, governing marijuana testing facilities, including but not limited to:

- (1) Marijuana testing facility officer or director qualification requirements;
- (2) Required security for marijuana testing facilities; and
- (3) Requirements for the registration, certification or other approval of marijuana testing facilities.

The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter.

Sec. 3. 22 MRSA §2423-A, sub-§10, ¶D-1, as enacted by PL 2019, c. 354, §4, is amended to read:

D-1. Upon the adoption of rules pursuant to paragraph D and this paragraph, a marijuana testing facility must be certified by the certification program established pursuant to section 569 as meeting all operational and technical requirements in accordance with rules adopted by the department after consultation with the Maine Center for Disease Control and Prevention. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. A marijuana testing facility operating in compliance with this chapter on the date of the adoption of

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1 rules pursuant to this paragraph and paragraph D may continue to operate pending
2 completion of certification under this paragraph. The failure of the department to adopt
3 rules under this paragraph does not prevent a marijuana testing facility from engaging
4 in activities in compliance with this chapter.

5 **Sec. 4. 22 MRSA §2423-B, sub-§2-A, ¶D**, as enacted by PL 2017, c. 452, §5, is
6 amended by amending the last blocked paragraph to read:

7 The department shall adopt routine technical rules as defined in Title 5, chapter 375,
8 subchapter 2-A to implement the reimbursement request under this paragraph, except
9 that, beginning July 1, 2021, rules adopted pursuant to this paragraph are major
10 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

11 **Sec. 5. 22 MRSA §2423-F, sub-§10**, as repealed and replaced by PL 2019, c. 331,
12 §17, is amended to read:

13 **10. Rulemaking.** The department shall adopt routine technical rules as defined in
14 Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted
15 pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375,
16 subchapter 2-A, governing manufacturing facilities, including but not limited to:

- 17 A. Requirements for the registration of a manufacturing facility and an officer or
- 18 director or assistant of a registered manufacturing facility;
- 19 B. Requirements for engaging in marijuana extraction using inherently hazardous
- 20 substances;
- 21 C. Manufacturing facility officer or director qualification requirements;
- 22 D. Required security for manufacturing facilities;
- 23 E. Requirements of a disposal plan for harvested marijuana used in the manufacturing
- 24 process; and
- 25 F. Minimum record-keeping requirements, including an annual audit requirement.

26 The failure of the department to adopt rules under this subsection does not prevent a person
27 authorized pursuant to subsection 3, paragraph A from engaging in conduct authorized
28 under this section.

29 **Sec. 6. 22 MRSA §2424, sub-§1-A**, as enacted by PL 2017, c. 452, §10, is amended
30 to read:

31 **1-A. Rulemaking.** The department may adopt rules to carry out the purposes of this
32 chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in
33 Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted
34 pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375,
35 subchapter 2-A.

36 **Sec. 7. 22 MRSA §2424, sub-§4**, as amended by PL 2019, c. 217, §4, is further
37 amended to read:

38 **4. Enforcement and compliance.** The department shall adopt routine technical rules
39 as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, the
40 department shall adopt major substantive rules as defined in Title 5, chapter 375,

COMMITTEE AMENDMENT

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1 subchapter 2-A, regarding enforcement and compliance of authorized conduct under this
2 chapter, including rules governing:

3 A. Minimum oversight requirements for dispensaries and registered caregivers and the
4 one permitted additional location at which a dispensary cultivates marijuana plants for
5 medical use by qualifying patients; and

6 B. Minimum security requirements for registered caregivers operating caregiver retail
7 stores pursuant to section 2423-A, subsection 2, paragraph P and registered
8 dispensaries and any additional location at which a dispensary cultivates marijuana
9 plants for medical use by qualifying patients.

10 **Sec. 8. 22 MRSA §2425-A, sub-§3-A**, as amended by PL 2019, c. 331, §19, is
11 further amended by amending the 2nd blocked paragraph to read:

12 The department, with the Department of Public Safety, Bureau of State Police, State Bureau
13 of Identification, shall adopt rules to implement this subsection. Rules adopted pursuant to
14 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
15 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this subsection are major
16 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

17 **Sec. 9. 22 MRSA §2425-A, sub-§10**, as enacted by PL 2017, c. 452, §12, is
18 amended to read:

19 **10. Fees.** The department shall adopt rules to establish fees in accordance with this
20 subsection. The fees must be credited to the Medical Use of Marijuana Fund pursuant to
21 section 2430. Rules adopted pursuant to this subsection are routine technical rules as
22 defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules
23 adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter
24 375, subchapter 2-A.

25 A. There is no annual registration fee for a qualifying patient or visiting qualifying
26 patient or a caregiver who is not required to register pursuant to section 2423-A,
27 subsection 3, paragraph C. There is no annual registration fee for a caregiver who does
28 not cultivate marijuana plants for a qualifying patient.

29 B. There is an annual registration fee for a caregiver who cultivates marijuana plants
30 on behalf of a qualifying patient pursuant to section 2423-A, subsection 2, paragraph
31 B. The fee may not be less than \$50 or more than \$240 for each group of up to 6 mature
32 marijuana plants cultivated by the caregiver. The caregiver shall notify the department
33 of the number of marijuana plants the caregiver cultivates.

34 C. There is an annual registration fee for a dispensary, which may not be less than
35 \$5,000 or more than \$12,000. There is a fee to change the location of a registered
36 dispensary or the location at which a registered dispensary cultivates marijuana plants,
37 which may not be less than \$3,000 or more than \$4,000.

38 D. There is an annual registration fee for a tier 1 manufacturing facility, which may
39 not be less than \$50 or more than \$150.

40 E. There is an annual registration fee for a tier 2 manufacturing facility, which may
41 not be less than \$150 or more than \$250.

42 F. There is an annual registration fee to engage in marijuana extraction under section
43 2423-F, subsection 3, which may not be less than \$250 or more than \$350.

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COMMITTEE AMENDMENT "H" to S.P. 425, L.D. 1319 (S-328)

1 G. There is an annual registration fee for a marijuana testing facility, which may not
2 be less than \$250 or more than \$1,000, except that there is no fee if the testing facility
3 is licensed in accordance with Title 28-B, chapter 1.

4 H. There is an annual registration fee for an officer or director or assistant of a
5 registered caregiver or registered dispensary, which may not be less than \$20 or more
6 than \$50.

7 I. There is a fee to replace a registry identification card that has been lost, stolen or
8 destroyed or a card that contains information that is no longer accurate, which may not
9 be less than \$10 or more than \$20. Replacement of a registry identification card does
10 not extend the expiration date.

11 J. There is an annual fee for a criminal history record check for a caregiver or an officer
12 or director or assistant of a registered dispensary, marijuana testing facility or
13 manufacturing facility, which may not be less than \$31 or more than \$60. The fee must
14 be paid by the caregiver or by the registered dispensary, marijuana testing facility or
15 manufacturing facility for an officer or director or assistant of the registered dispensary,
16 marijuana testing facility or manufacturing facility.

17 **Sec. 10. 22 MRSA §2425-A, sub-§13, ¶A**, as enacted by PL 2017, c. 452, §12, is
18 amended to read:

19 A. A registered caregiver or a dispensary shall submit annually a report of the number
20 of qualifying patients and visiting qualifying patients assisted by the caregiver or
21 dispensary. A report may not directly or indirectly disclose patient identity. The
22 department shall adopt rules to implement this paragraph. Rules adopted pursuant to
23 this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter
24 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this paragraph are
25 major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

26 **Sec. 11. 22 MRSA §2430, sub-§5**, as amended by PL 2019, c. 331, §31, is further
27 amended to read:

28 **5. Medical marijuana research grant program established.** The medical marijuana
29 research grant program, referred to in this subsection as "the program," is established within
30 the department to provide grant money to support objective scientific research, including
31 observational and clinical trials and existing research, on the efficacy of harvested
32 marijuana as part of medical treatment and the health effects of harvested marijuana used
33 as part of medical treatment. The program must be funded from the fund. The department
34 shall adopt rules necessary to implement the program, including, but not limited to, required
35 qualifications of persons conducting the research; determining the scientific merit and
36 objectivity of a research proposal; criteria for determining the amount of program funds
37 distributed; criteria for determining the duration of the research; procedures for soliciting
38 research participants, including outreach to patients, and for obtaining the informed consent
39 of participants; and reporting requirements for the results of the research and evaluation of
40 the research results. Rules adopted pursuant to this subsection are routine technical rules
41 as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules
42 adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter
43 375, subchapter 2-A.

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1 **Sec. 12. 22 MRSA §2430-E, sub-§2**, as enacted by PL 2017, c. 452, §24, is
2 amended to read:

3 **2. Repeat forfeiture.** If a cardholder has previously forfeited excess marijuana
4 pursuant to subsection 1 and a subsequent forfeiture occurs, the department shall revoke
5 the registry identification card of the cardholder and the entire amount of marijuana plants
6 or harvested marijuana possessed by that cardholder must be forfeited to a law enforcement
7 officer. The department shall adopt rules to implement this subsection. Rules adopted
8 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
9 subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this
10 subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

11 **Sec. 13. 22 MRSA §2430-F, sub-§1**, as enacted by PL 2017, c. 452, §24, is
12 amended to read:

13 **1. Department suspension or revocation.** The department may suspend or revoke a
14 registry identification card for violation of this chapter and the rules adopted under this
15 chapter. Revocation in accordance with section 2430-E, subsection 2 is considered a final
16 agency action, subject to judicial review under Title 5, chapter 375, subchapter 7. Unless
17 otherwise specified as final agency action, a person who has had authorization for conduct
18 under this chapter revoked due to failure to comply with this chapter and rules adopted by
19 the department may request an informal hearing. The department shall adopt rules to
20 specify the period of time, which may not exceed one year, that the person whose registry
21 identification card was revoked is ineligible for reauthorization under this chapter. Rules
22 adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter
23 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this
24 subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

25 The department shall immediately revoke the registry identification card of an officer or
26 director or assistant of a dispensary who is found to have violated section 2428, subsection
27 9, paragraph B, and that person is disqualified from serving as an officer or director or
28 assistant of a dispensary.

29 **Sec. 14. 22 MRSA §2430-G, sub-§1, ¶A**, as enacted by PL 2017, c. 452, §24, is
30 amended by amending subparagraph (2) to read:

31 (2) Keep the books and records maintained by the registered caregiver, registered
32 dispensary, marijuana testing facility or manufacturing facility for a period of 7
33 years; and

34 **Sec. 15. 22 MRSA §2430-G, sub-§1, ¶A**, as enacted by PL 2017, c. 452, §24, is
35 amended by repealing subparagraph (3).

36 **Sec. 16. 22 MRSA §2430-G, sub-§1**, as amended by PL 2019, c. 331, §32, is
37 further amended by amending the blocked paragraph to read:

38 The department may adopt rules to implement this subsection. Rules adopted pursuant to
39 this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter
40 2-A.

41 **Sec. 17. Rules governing the medical use of marijuana.** The rules governing
42 the medical use of marijuana are those rules that were in effect as of February 28, 2021.
43 Pursuant to the authority designated in this legislation, rules governing the medical use of

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COMMITTEE AMENDMENT "A" to S.P. 425, L.D. 1319 (S. 328)

1 marijuana beginning July 1, 2021 are major substantive rules as defined in the Maine
2 Revised Statutes, Title 5, chapter 375, subchapter 2-A. Before provisionally adopting new
3 rules and submitting the rules to the Legislature for review pursuant to Title 5, section 8072,
4 including but not limited to rules necessary for the implementation of a statewide electronic
5 portal under Title 22, section 2430-G, subsection 1, paragraph B, the Department of
6 Administrative and Financial Services shall:

7 1. Develop a process to consult with caregivers, registered caregivers, qualifying
8 patients and medical providers with significant knowledge and experience certifying
9 patients under the Maine Medical Use of Marijuana Act, in accordance with Title 22,
10 section 2422-A, subsection 2;

11 2. Develop a process to use when hiring consultants to advise on any new rules or
12 proposed changes to existing rules governing the medical use of marijuana, in accordance
13 with Title 22, section 2422-A, subsection 2; and

14 3. Using existing resources, conduct a study evaluating the economic effects that any
15 new rules or proposed changes to existing rules may have, including but not limited to, the
16 effects of implementing a statewide electronic portal on caregiver businesses of all sizes
17 and how such rules could affect the access of patients to marijuana for medical use.

18 The Department of Administrative and Financial Services shall submit a report
19 including the processes developed under subsections 1 and 2 and the findings under
20 subsection 3 to the joint standing committee of the Legislature having jurisdiction over
21 medical use of marijuana matters no later than January 15, 2022. The joint standing
22 committee of the Legislature having jurisdiction over medical use of marijuana matters
23 may introduce legislation for presentation to the Second Regular Session of the 130th
24 Legislature based on the information provided in the report.

25 **Sec. 18. Appropriations and allocations.** The following appropriations and
26 allocations are made.

27 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**
28 **Adult Use Marijuana Regulatory Coordination Fund Z264**

29 Initiative: Provides allocations for 8 Field Investigator positions and 2 Field Investigator
30 Supervisor positions to handle increased inspections for providers to obtain compliance
31 within the program.

32	OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
33	POSITIONS - LEGISLATIVE COUNT	10.000	10.000
34	Personal Services	\$852,486	\$890,292
35	All Other	\$194,362	\$194,935
36			
37	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$1,046,848</u>	<u>\$1,085,227</u>

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39 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
40 number to read consecutively.

41 **SUMMARY**

42 This amendment strikes and replaces the bill and does the following:

COMMITTEE AMENDMENT

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- 1. Changes the emergency provisions in the bill;
 - 2. Changes the designation of rules governing the medical use of marijuana from routine technical to major substantive beginning July 1, 2021;
 - 3. Provides that the Department of Administrative and Financial Services' rules governing the medical use of marijuana are those that were in effect on February 28, 2021;
 - 4. Requires that before provisionally adopting new rules, including but not limited to rules necessary to implement a statewide electronic portal through which registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities may submit certain records, the Department of Administrative and Financial Services must:
 - A. Develop a process to consult with caregivers, registered caregivers, qualifying patients and medical providers with significant knowledge and experience certifying patients under the Maine Medical Use of Marijuana Act, in accordance with the Maine Revised Statutes, Title 22, section 2422-A, subsection 2;
 - B. Develop a process to use when hiring consultants to advise on any new rules or proposed changes to existing rules governing the medical use of marijuana, in accordance with Title 22, section 2422-A, subsection 2; and
 - C. Using existing resources, conduct a study evaluating the economic effects that any new rules or proposed changes to existing rules may have, including but not limited to, the effects of implementing a statewide electronic portal on caregiver businesses of all sizes and how such rules could affect the access of patients to marijuana for medical use.
- The Department of Administrative and Financial Services is required to submit a report including the processes developed and the findings evaluated to the joint standing committee of the Legislature having jurisdiction over medical use of marijuana matters no later than January 15, 2022. The joint standing committee of the Legislature having jurisdiction over medical use of marijuana matters is authorized to introduce legislation for presentation to the Second Regular Session of the 130th Legislature based on the information provided in the report; and
- 5. It eliminates the requirement that a registered caregiver, a registered dispensary, a marijuana testing facility and a manufacturing facility complete an annual audit conducted by a 3rd party of business transactions.

The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



130th MAINE LEGISLATURE

LD 1319

LR 1371(03)

An Act Regarding Registered Dispensaries and Rules under the Maine Medical Use of Marijuana Act and the Definition of "Resident" in the Marijuana Legalization Act

Fiscal Note for Bill as Amended by Committee Amendment "A" (S. 328)
Committee: Veterans and Legal Affairs
Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Appropriations/Allocations				
Other Special Revenue Funds	\$1,046,848	\$1,085,227	\$1,119,954	\$1,155,793

Fiscal Detail and Notes

The bill includes Other Special Revenue Funds allocations to the Department of Administrative and Financial Services of \$1,046,848 in fiscal year 2021-22 and \$1,085,227 in fiscal year 2022-23 for 8 Field Investigator positions and 2 Field Investigator Supervisor positions to handle increased inspections for providers to obtain compliance within the program. The allocations will be funded from the Medical Use of Marijuana Fund.