

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

FIRST REGULAR SESSION

January 3, 1979 to June 15, 1979

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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Kennebec Journal  
Augusta, Maine  
1979

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Whereas, the current law imposes an especially unfair burden on smaller dealers who are, in the aforementioned respects, even less able to handle returnables throughout their entire business day; and

Whereas, this burden may pose an immediate threat to the livelihood of some smaller dealers; and

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

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

32 MRSA § 1866, sub-§ 2-B is enacted to read:

**2-B. Limitation on hours for returning containers.** A dealer may refuse to accept beverage containers during no more than 3 hours in any one business day. If a dealer refuses to accept containers under this subsection, the hours during which he will not accept containers shall be conspicuously posted.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 15, 1979

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## CHAPTER 457

H. P. 523 — L. D. 665

**AN ACT to Establish a Marijuana Therapeutic Research Program.**

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

22 MRSA c. 558-A is enacted to read:

### CHAPTER 558-A

#### MARIJUANA THERAPEUTIC RESEARCH PROGRAM

§ 2401. Short title

This chapter shall be known and cited as the "Marijuana Therapeutic Research Act."

§ 2402. Findings and purpose

The Legislature finds that research has recently indicated that the use of marijuana may alleviate nausea and certain other side effects of cancer chemotherapy as well as some symptoms of glaucoma. The Legislature also finds that further research and strictly controlled experimentation regarding the therapeutic uses of marijuana is necessary and desirable. The purpose of this chapter is to facilitate and encourage this research and experimentation.

§ 2403. Definitions

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

1. Board. "Board" means the Participation Review Board.
2. Commissioner. "Commissioner" means the Commissioner of Human Services.
3. Department. "Department" means the Department of Human Services.
4. Marijuana. "Marijuana" means marijuana, tetrahydrocannabinols or a chemical derivative of tetrahydrocannabinols.
5. Practitioner. "Practitioner" means an allopathic or osteopathic physician licensed to practice in this State.
6. Program. "Program" means the marijuana therapeutic research program.

§ 2404. Marijuana therapeutic research program

1. Establishment; administration. There is established within the department a marijuana therapeutic research program which shall be administered by the commissioner.
2. Rules. Subject to Title 5, chapter 375, the department shall adopt rules necessary for the proper administration of the program. In adopting rules, the department shall consider pertinent rules adopted by the Drug Enforcement Agency, the Food and Drug Administration, the National Institute on Drug Abuse and any other federal agency concerned with the subject of this chapter.
3. Supply. The commissioner shall contract with the National Institute on Drug Abuse for the receipt of marijuana under rules adopted by the National Institute on Drug Abuse, the Food and Drug Administration and the Drug Enforcement Agency. If, within a reasonable period of time, the commissioner is unable to obtain marijuana as provided in this subsection, he shall contract with appropriate law enforcement agencies in this State for the receipt of confiscated

marijuana not intended for use as evidence in any criminal proceeding. Any marijuana so received shall be made free of impurities and analyzed for potency by the department.

4. **Distribution.** The commissioner shall deliver marijuana received under subsection 3 to appropriate state or privately operated licensed pharmacies designated by the commissioner. Any marijuana so delivered shall be distributed to patients upon the written prescription of their approved practitioner. Any privately operated licensed pharmacy designated by the commissioner under this section shall not be liable, except for gross negligence, in any civil action on account of marijuana distributed to patients under this chapter.

#### § 2405. Participation Review Board

The commissioner shall appoint a Participation Review Board to review practitioners for participation in the program. The board shall serve at the commissioner's pleasure and shall consist of:

1. **Physician licensed to practice in this State; American Board of Ophthalmology.** A physician licensed to practice in this State and certified by the American Board of Ophthalmology;

2. **Physician licensed to practice in this State; American Board of Internal Medicine.** A physician licensed to practice in this State and certified by the American Board of Internal Medicine and also certified in the subspecialty of medical oncology; and

3. **Physician licensed to practice in this State; American Board of Psychiatry.** A physician licensed to practice in this State and certified by the American Board of Psychiatry.

Members of the board may be reimbursed for their attendance at meetings at the rate of \$40 per day.

#### § 2406. Participation in the program

1. **Application.** Any practitioner who wants to participate in the program shall apply to the board for approval and pay a \$25 application fee.

2. **Review and approval.** The board shall review all applicants and, if they are eligible under subsection 3 and the rules adopted by the department under section 2404, subsection 2, shall approve them for participation. In performing these duties, the board shall be subject to Title 5, chapter 375.

3. **Prescriptions.** A practitioner approved for participation in the program may prescribe marijuana to only those patients who are undergoing cancer chemotherapy or suffering from glaucoma and are in a life-threatening or sense-threatening situation, and who are not responding to conventional treatment or

who are suffering severe side effects even though conventional treatment is proving effective.

**§ 2407. Expressly authorized possession, prescription and distribution**

A practitioner approved for participation in the program is expressly authorized to prescribe marijuana under this chapter. A patient for whom marijuana has been prescribed by a practitioner approved for participation in the program is expressly authorized to possess marijuana under this chapter. A state or privately operated licensed pharmacy designated by the commissioner is expressly authorized to possess and distribute marijuana under this chapter.

**§ 2408. Confidentiality**

1. Access to information. Only the following persons shall have access to the names and other identifying characteristics of patients for whom marijuana has been prescribed under this chapter:

- A. The commissioner;
- B. The board;
- C. The Attorney General or his designee;
- D. Any person directly connected with the program who has a legitimate need for the information; and
- E. Any person for whom access has been specifically authorized by a patient.

Meetings and records of the board shall not be subject to the requirements of Title 1, chapter 13.

2. Exceptions. Nothing in this section shall affect the right to inspect the records of any pharmacy under Title 17-A, section 1113, or prohibit access to or release of information concerning any persons acting under color of this chapter with respect to conduct not expressly authorized by this chapter.

**§ 2409. Reports**

The commissioner and the board shall annually report their findings and recommendations regarding the program to the Governor and the Legislature.

**§ 2410. Two-year sunset**

This chapter shall be repealed 2 years after it becomes effective.