

MAINE STATE LEGISLATURE

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L.D. 1392

Date: 6/16/15

Majority

(Filing No. H-454)

HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 942, L.D. 1392, Bill, "An Act To Amend the Maine Medical Use of Marijuana Act"

Amend the bill by striking out all of section 1 (page 1, lines 2 to 6 in L.D.) and inserting the following:

Sec. 1. 16 MRSA §805, sub-§§5 and 6, as enacted by PL 2013, c. 267, Pt. A, §3, are amended to read:

5. An authorized person or entity. A person or public or private entity expressly authorized to receive the intelligence and investigative record information by statute, executive order, court rule, court decision or court order. "Express authorization" means language in the statute, executive order, court rule, court decision or court order that specifically speaks of intelligence and investigative record information or specifically refers to a type of intelligence or investigative record; or

6. Secretary of State. The Secretary of State for use in the determination and issuance of a driver's license suspension; or

Sec. 2. 16 MRSA §805, sub-§7 is enacted to read:

7. Government agency responsible for administering Maine Medical Use of Marijuana Act. The government agency responsible for administering the Maine Medical Use of Marijuana Act if the intelligence and investigative record information is used in the management of a current investigation pursuant to the Maine Medical Use of Marijuana Act.

Amend the bill by striking out all of section 11 (page 3, lines 1 to 6 in L.D.)

Amend the bill in section 12 in paragraph A-1 in the 2nd line (page 3, line 9 in L.D.) by inserting after the following: "patient" the following: 'A primary caregiver may request a waiver from the department to obtain permission to provide more than 2 1/2 ounces of prepared marijuana during a 15-day period to accommodate a qualifying patient's medical needs. The department shall adopt rules governing the waiver process established under this paragraph'

1 Amend the bill in section 13 in paragraph A in the 7th line (page 3, line 18 in L.D.)
 2 by striking out the following: "further the business of the municipality" and inserting the
 3 following: 'enforce municipal code'

4 Amend the bill in section 14 in paragraph B in the 3rd line from the end (page 3, line
 5 33 in L.D.) by striking out the following: "further the business of the municipality" and
 6 inserting the following: 'enforce municipal code'

7 Amend the bill in section 15 in paragraph C by striking out all of the first 3 lines
 8 (page 3, lines 38 to 40 in L.D.) and inserting the following:

9 'C. A primary caregiver designated to cultivate marijuana for a qualifying patient is
 10 required to register with the department, except that ~~the following primary caregivers~~
 11 ~~are not required to register~~; a primary caregiver who cultivates for up to 2 qualifying
 12 patients is not required to register if the qualifying patients are members of the family
 13 of that primary caregiver and residents of this State.'

14 Amend the bill in section 19 in subsection 3 in the 3rd line (page 5, line 24 in L.D.)
 15 by inserting after the following: "caregivers," the following: 'employees of a registered
 16 primary caregiver.'

17 Amend the bill by striking out all of section 21 (page 5, lines 37 and 38 in L.D.) and
 18 inserting the following:

19 '**Sec. 21. 22 MRSA §2425, sub-§2**, as amended by PL 2013, c. 516, §11, is
 20 further amended to read:

21 **2. Issuing medical certification card to minor child.** ~~The department~~ A medical
 22 provider may not register and issue a registry identification card that is a medical
 23 provider-issued medical certification card to a qualifying patient who is under 18 years of
 24 age minor unless:

25 A. The qualifying patient's medical provider has explained the potential risks and
 26 benefits of the medical use of marijuana to the qualifying patient and to a parent,
 27 guardian or person having legal custody of the qualifying patient;

28 B. The parent, guardian or person having legal custody consents in writing to:

29 (1) The qualifying patient's medical use of marijuana;

30 (2) Serving as one of the qualifying patient's primary caregivers; and

31 (3) Controlling the acquisition of the marijuana and the dosage and the
 32 frequency of the medical use of marijuana by the qualifying patient; and

33 D. The requirements of section 2423-B, subsection 2 have been met.'

34 Amend the bill in section 22 in subsection 3 in the 8th line (page 6, line 8 in L.D.) by
 35 striking out the following: "acted in bad faith with respect to" and inserting the following:
 36 'violated'

37 Amend the bill in section 24 in subsection 5 by striking out all of the first paragraph
 38 (page 6, lines 22 to 30 in L.D.) and inserting the following:

1 **5. Registry identification card issuance.** The department shall issue registry
 2 identification cards ~~to registered patients, to registered primary caregivers, to employees~~
 3 ~~of registered caregivers and to staff of hospice providers and nursing facilities, as~~
 4 ~~applicable, designated by registered qualifying patients as primary caregivers within 5~~
 5 ~~days of approving an application or renewal under this section. Registry identification~~
 6 ~~cards expire one year after the date of issuance, except that the date of issuance and~~
 7 ~~expiration date of a registered primary caregiver's registry identification card must be the~~
 8 ~~same as the issuance and expiration dates on the patient's registry identification card.~~
 9 Registry identification cards must contain:'

10 Amend the bill by striking out all of section 32 (page 9, lines 1 to 10 in L.D.) and
 11 inserting the following:

12 '**Sec. 32. 22 MRSA §2428, sub-§1-A, ¶A**, as amended by PL 2011, c. 407, Pt. B,
 13 §32, is further amended to read:

14 A. Possess and dispense up to 2 1/2 ounces of prepared marijuana and possess an
 15 incidental amount of marijuana for each qualifying patient who has designated the
 16 dispensary. A dispensary may request a waiver from the department to obtain
 17 permission to dispense more than 2 1/2 ounces of prepared marijuana to
 18 accommodate a qualifying patient's medical needs. The department shall adopt rules
 19 governing the waiver process established under this paragraph. For the purposes of
 20 this chapter, any incidental amount of marijuana is lawful for a registered dispensary
 21 to possess and is not included in the amounts of prepared marijuana specified in this
 22 paragraph;

23 **Sec. 33. 22 MRSA §2428, sub-§2, ¶B**, as amended by PL 2009, c. 631, §42 and
 24 affected by §51, is repealed.'

25 Amend the bill in section 33 in paragraph I in the 4th line from the end (page 9, line
 26 in L.D.) by striking out the following: "further the business of the municipality" and
 27 inserting the following: 'enforce municipal code'

28 Amend the bill in section 34 in subsection 4 by striking out all of paragraph B (page
 29 9, lines 36 to 37 in L.D.) and inserting the following:

30 'B. A primary caregiver whose caregiver registration card has been revoked shall, in
 31 accordance with this chapter, dispose of all medical marijuana in any form for
 32 designated qualifying patients.

33 'C. A person who was a primary caregiver until that person's caregiver registration
 34 card for qualifying patients was revoked may continue to cultivate marijuana for that
 35 person's personal use if that person is a qualifying patient if not otherwise prohibited
 36 under the law.'

37 Amend the bill in section 36 in §2430-A by striking out all of subsections 3 and 4
 38 (page 10, lines 13 to 24 in L.D.) and inserting the following:

39 '3. Registered primary caregiver penalties. A registered primary caregiver who
 40 fails to comply with the provisions of this chapter commits a civil violation for which a
 41 fine of not less than \$200 per day and not more than \$500 per day may be adjudged.

- 1 8. It eliminates the exception for expiration of registry identification cards;
- 2 9. It repeals the requirement that the department track the number of qualifying
- 3 patients who designate a dispensary to cultivate marijuana for them and report this
- 4 number to the dispensary;
- 5 10. It provides that a person who was a primary caregiver until that person's
- 6 caregiver registration card for qualifying patients was revoked may continue to cultivate
- 7 marijuana for that person's personal use if that person is a qualifying patient and not
- 8 otherwise prohibited under the law; and
- 9 11. It makes the imposition of fines discretionary; amends the penalty provisions for
- 10 registered primary caregivers and dispensaries so that each day of a violation does not
- 11 constitute a separate offense and so that a Class D crime may not be imposed for repeat
- 12 violations; eliminates the provision establishing the burden of proof for alleged violations
- 13 of the Maine Medical Use of Marijuana Act; and directs the Department of Health and
- 14 Human Services to adopt routine technical rules to carry out the objectives of the
- 15 compliance provisions.

FISCAL NOTE REQUIRED
(See attached)



127th MAINE LEGISLATURE

LD 1392

LR 550(02)

An Act To Amend the Maine Medical Use of Marijuana Act

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-454)

Committee: Health and Human Services

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Increases the number of civil violations.
The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

There will be additional administrative costs to the Department of Health and Human Services to adopt the changes in this bill, but they are expected to be minor and can be absorbed within existing budgeted resources.