

MAINE STATE LEGISLATURE

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Date: 1/25/17

VETERANS AND LEGAL AFFAIRS

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

COMMITTEE AMENDMENT "A" to H.P. 66, L.D. 88, Bill, "An Act To Delay the Implementation of Certain Portions of the Marijuana Legalization Act"

Amend the bill by striking out all of section 1 and inserting the following:

Sec. 1. 7 MRSA §2442, sub-§5, as enacted by IB 2015, c. 5, §1, is repealed.

Sec. 2. 7 MRSA §2442, sub-§22, as enacted by IB 2015, c. 5, §1, is amended to read:

22. Marijuana. "Marijuana" means ~~cannabis~~ the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not.

Sec. 3. 7 MRSA §2442, sub-§22-A is enacted to read:

22-A. Marijuana concentrate. "Marijuana concentrate" means the resin extracted from any part of the plant genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including hashish. In determining the weight of marijuana concentrate, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

Sec. 4. 7 MRSA §2442, sub-§34, as enacted by IB 2015, c. 5, §1, is amended to read:

34. Retail marijuana. "Retail marijuana" means ~~cannabis~~ marijuana or marijuana concentrate that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment or retail marijuana social club.

Sec. 5. 7 MRSA §2443, as enacted by IB 2015, c. 5, §1, is repealed.

Sec. 6. 7 MRSA §2444, sub-§2, as enacted by IB 2015, c. 5, §1, is amended to read:

2. Adoption of rules. The state licensing authority shall adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of this chapter, not later than 9 months after the effective date of this Act, and shall adopt amended rules and

COMMITTEE AMENDMENT

1 such special rules and make findings as necessary. For the purpose of adopting rules
2 pursuant to this subsection, the commissioner may delegate rule-making authority granted
3 under this section to the Commissioner of Administrative and Financial Services or the
4 Commissioner of Public Safety, or both, if the commissioner determines that the expertise
5 and resources of those other departments would be beneficial in the development of the
6 rules and the enforcement of those rules. These rules are major substantive rules pursuant
7 to Title 5, chapter 375, subchapter 2-A. Rules must address but are not limited to the
8 following issues:

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

15 B. The development of such forms, licenses, identification cards and applications as
16 necessary for the administration of this chapter or of any of the rules adopted under
17 this chapter;

18 C. The preparation and transmission annually, in the form and manner prescribed by
19 this chapter, of a report to the Legislature accounting for the efficient discharge of all
20 responsibilities assigned by law or rules to the state licensing authority;

21 D. Procedures consistent with this chapter for the issuance, renewal, suspension and
22 revocation of licenses to operate retail marijuana establishments;

23 E. Limits on the concentration of THC and other cannabinoids per serving in any
24 retail marijuana product;

25 F. Qualifications for licensure including, but not limited to, the requirement for a
26 fingerprint-based criminal history record check for all owners, officers, managers,
27 employees and other support staff of entities licensed pursuant to this chapter;

28 G. Security requirements for any licensed premises under this chapter including, at a
29 minimum, lighting, physical security, alarm requirements and other minimum
30 procedures for internal control as determined necessary by the state licensing
31 authority to properly administer and enforce the provisions of this chapter, including
32 reporting requirements for changes, alterations or modifications to the licensed
33 premises. Security requirements may not be unreasonably impracticable; and

34 H. Securing and recording permission for a local fire department or the State Fire
35 Marshal to conduct an annual fire inspection of a retail marijuana cultivation facility.'

36 Amend the bill by striking out all of sections 9 to 11 and inserting the following:

37 'Sec. 9. 7 MRSA §2452, sub-§1, as enacted by IB 2015, c. 5, §1, is amended to
38 read:

39 1. **Person 21 years of age or older.** A person 21 years of age or older may:

40 A. Use, possess or transport marijuana accessories and use, possess or transport up to
41 2 1/2 ounces of prepared marijuana or a combination of marijuana and marijuana
42 concentrate, which may include no more than 5 grams of marijuana concentrate;

1 B. Transfer or furnish, without remuneration, up to 2 1/2 ounces of marijuana or a
2 combination of marijuana and marijuana concentrate, which may include no more
3 than 5 grams of marijuana concentrate, and up to 6 immature plants or seedlings to a
4 person who is 21 years of age or older;

5 C. Possess, grow, cultivate, process or transport up to 6 flowering marijuana plants,
6 12 immature plants and unlimited seedlings, and possess all the marijuana produced
7 by the plants at the adult's residence;

8 D. Purchase Beginning February 1, 2018, purchase up to 2 1/2 ounces of retail
9 marijuana and marijuana accessories from a retail marijuana store; and

10 E. Purchase Beginning February 1, 2018, purchase up to 12 seedlings or immature
11 plants from a retail marijuana cultivation facility.

12 **Sec. 10. 7 MRSA §2452, sub-§5,** as enacted by IB 2015, c. 5, §1, is repealed.

13 **Sec. 11. 7 MRSA §2452, sub-§§6 and 7** are enacted to read:

14 **6. Personal use; violation.** The following provisions apply to the personal
15 consumption of marijuana and marijuana concentrate.

16 A. A person 21 years of age or older may consume marijuana or marijuana
17 concentrate only if that person is:

18 (1) In a private residence, including curtilage; or

19 (2) On private property, not generally accessible by the public, and the person is
20 explicitly permitted to consume marijuana or marijuana concentrate on the
21 property by the owner of the property.

22 B. The operator of a vehicle on a public way or a passenger in the vehicle may not
23 consume marijuana or marijuana concentrate. As used in this paragraph, "vehicle"
24 has the same meaning as in Title 29-A, section 101, subsection 91.

25 C. A person may not consume marijuana or marijuana concentrate in a private
26 residence or on private property used as a day care or baby-sitting service during the
27 hours in which the residence or property is being operated as a day care or baby-
28 sitting service.

29 D. A person may not consume marijuana or marijuana concentrate in a designated
30 smoking area as provided under the Workplace Smoking Act of 1985.

31 A person who violates this subsection commits a civil violation for which a fine of not
32 more than \$100 may be adjudged. This subsection may not be construed to shield any
33 person from federal prosecution. This subsection may not be construed to allow any
34 person to possess or consume marijuana on federal property.

35 **7. Possession of certain edibles.** Notwithstanding subsection 1, until February 1,
36 2018, a person may not possess edible retail marijuana products. This subsection does
37 not apply to marijuana products purchased for medical use pursuant to Title 22, chapter
38 558-C.¹

39 Amend the bill by striking out all of sections 14 and 15 and inserting the following:

1 **Sec. 14. 15 MRSA §3103, sub-§1, ¶B,** as amended by PL 2011, c. 464, §3, is
2 further amended to read:

3 B. Offenses involving illegal drugs or drug paraphernalia as follows:

4 (1) The possession of a useable amount of marijuana, as provided in Title 22,
5 section 2383, subsection 1-A, unless the juvenile is authorized to possess
6 marijuana for medical use pursuant to Title 22, chapter 558-C;

7 (2) The use or possession of drug paraphernalia as provided in Title 17-A,
8 section 1111-A, subsection 4-B; and

9 (3) Illegal transportation of drugs by a minor as provided in Title 22, section
10 2389, subsection 2;

11 **Sec. 15. 22 MRSA §2383, sub-§1-A** is enacted to read:

12 **1-A. Marijuana possession by a person under 21 years of age.** Except for
13 possession of marijuana for medical use pursuant to chapter 558-C, a person who is under
14 21 years of age may not possess marijuana. A person who is 18, 19 or 20 years of age
15 who possesses a usable amount of marijuana commits a civil violation for which a fine of
16 not less than \$350 and not more than \$600 must be adjudged for possession of up to 1 1/4
17 ounces of marijuana and a fine of not less than \$700 and not more than \$1,000 must be
18 adjudged for possession of over 1 1/4 ounces to 2 1/2 ounces of marijuana, none of which
19 may be suspended. For the purposes of this section, marijuana has the same meaning as
20 in Title 17-A, section 1101, subsection 1.'

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

23 SUMMARY

24 This amendment strikes the definition of "cannabis" from the Marijuana Legalization
25 Act. It amends the definition of "marijuana" and adds a definition of "marijuana
26 concentrate." The amendment adds a provision to the Marijuana Legalization Act that
27 prohibits a person from possessing more than 5 grams of marijuana concentrate as part of
28 the 2 1/2 ounces of marijuana that a person may already legally possess under the Act.
29 This amendment strikes a provision in the bill that, prior to February 1, 2018, limited
30 personal marijuana consumption to a private residence. The amendment provides that
31 personal marijuana consumption by a person 21 years of age or older may occur only in a
32 private residence or on private property with permission of the owner. It further provides
33 that consumption may not occur in a motor vehicle or in a private residence that is used
34 as a day care or baby-sitting service during the hours of operation.

35 For the purpose of adopting major substantive rules relating to the retail framework
36 under the Marijuana Legalization Act, which are required to be submitted within 9
37 months of the effective date of the Act, the amendment allows the Commissioner of
38 Agriculture, Conservation and Forestry to delegate rule-making authority to the
39 Commissioner of Administrative and Financial Services or the Commissioner of Public
40 Safety if the Commissioner of Agriculture, Conservation and Forestry determines that the

1 expertise and resources of those other departments would be beneficial in the
2 development of the rules.

3 The amendment also provides that possession of marijuana is a civil violation for a
4 person who is 18, 19 or 20 years of age. The penalty for possession of up to 1 1/4 ounces
5 of marijuana is a fine no less than \$350 to no more than \$600. The penalty for possession
6 of up to 2 1/2 ounces is a fine of no less than \$700 and no more than \$1,000. These
7 penalties are the same as those that were in law for any nonjuvenile prior to being
8 repealed by Initiated Bill 2015, chapter 5. Finally, the amendment provides that it is a
9 juvenile crime under the Maine Juvenile Code for a person under 18 years of age to
10 possess marijuana and makes a corresponding technical cross-reference change.

11

FISCAL NOTE REQUIRED

12

(See attached)



128th MAINE LEGISLATURE

LD 88

LR 1572(02)

An Act To Delay the Implementation of Certain Portions of the Marijuana Legalization Act

Fiscal Note for Bill as Amended by Committee Amendment 'A' (CAH-1)
Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

Delayed Impact

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$490,000	\$0	\$0	\$0
Revenue				
General Fund	(\$490,000)	\$0	\$0	\$0
Other Special Revenue Funds	(\$10,000)	\$0	\$0	\$0

Fiscal Detail and Notes

This bill delays the effective date of retail sales of recreational marijuana to February 1, 2018. This delay would reduce revenue from the tax on marijuana sales, reducing General Fund revenue and Local Government Fund revenue by an estimated \$490,000 and \$10,000, respectively, in fiscal year 2017-18.

The state licensing authority, still the Department of Agriculture, Conservation and Forestry (ACF), can delay expenditures of approximately \$132,633 in fiscal year 2017-18 and \$2,379,534 in fiscal year 2018-19 for 3 permanent positions in fiscal year 2017-18 and an additional 15 permanent positions (18 total) in fiscal year 2018-19, related costs and certain one-time costs to regulate and control the licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana and retail marijuana products. As these amounts have not yet been appropriated to ACF, no deappropriations are required for the delay in this bill. Additional legislation will still be required to fund the licensing and enforcement functions of implementing the legalization of marijuana.

The bill also allows ACF to delegate rulemaking authority to the Commissioner of the Department of Administrative and Financial Services or the Commissioner of the Department of Public Safety, or both, if there is a determination that the expertise and resources of those departments would benefit the rules and the enforcement of the Marijuana Legalization Act.

Establishing civil violations for persons 18, 19 and 20 years of age who possess marijuana may increase fine revenue by amounts that are not expected to be significant.