

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 88

H.P. 66

House of Representatives, January 11, 2017

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

(EMERGENCY)

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LUCHINI of Ellsworth.
Cosponsored by President THIBODEAU of Waldo.

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

3 **Whereas,** implementing a system for the regulation and administration of the
4 cultivation, distribution and retail sale of recreational marijuana, a controlled substance, is
5 a complex function with significant financial costs; and

6 **Whereas,** ensuring that possession and use of recreational marijuana is limited to
7 persons who are 21 years of age and older is necessary to protect those who have not yet
8 reached adulthood from the potential negative effects of irresponsible use of a controlled
9 substance; and

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

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

15 **Sec. 1. 7 MRSA §2444, first ¶,** as enacted by IB 2015, c. 5, §1, is amended to
16 read:

17 ~~For~~ Beginning February 1, 2018, for the purpose of regulating and controlling the
18 licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana
19 and retail marijuana products in this State, the state licensing authority is the Department
20 of Agriculture, Conservation and Forestry.

21 **Sec. 2. 7 MRSA §2445, first ¶,** as enacted by IB 2015, c. 5, §1, is amended to
22 read:

23 ~~The~~ Beginning February 1, 2018, the state licensing authority shall establish, within a
24 specific time frame, a retail marijuana and retail marijuana products independent testing
25 and certification program. This program must require licensees to test retail marijuana
26 and retail marijuana products to ensure at a minimum that products sold for human
27 consumption do not contain contaminants that are injurious to health and to ensure
28 correct labeling.

29 **Sec. 3. 7 MRSA §2446, sub-§5** is enacted to read:

30 **5. Effective date.** This section takes effect February 1, 2018.

31 **Sec. 4. 7 MRSA §2447, first ¶,** as enacted by IB 2015, c. 5, §1, is amended to
32 read:

33 ~~An~~ Beginning February 1, 2018, an application for a license under the provisions of
34 this chapter must be made to the state licensing authority on forms prepared and furnished
35 by the state licensing authority and must set forth such information as the state licensing
36 authority may require to enable the state licensing authority to determine whether a
37 license should be granted. The information must include the name and address of the

1 applicant and the names and addresses of the applicant's officers, directors or managers.
2 Each application must be verified by the oath or affirmation of such person or persons as
3 the state licensing authority may prescribe. The state licensing authority may issue a
4 license to an applicant pursuant to this section upon completion of the applicable criminal
5 history record check associated with the application. The license is conditioned upon
6 municipal approval. An applicant is prohibited from operating a retail marijuana
7 establishment or retail marijuana social club without state licensing authority and
8 municipal approval. If the applicant does not receive municipal approval within one year
9 from the date of state licensing authority approval, the license expires and may not be
10 renewed. If an application is not approved by the municipality, the state licensing
11 authority shall revoke the license.

12 **Sec. 5. 7 MRSA §2448, sub-§19** is enacted to read:

13 **19. Effective date.** This section takes effect February 1, 2018.

14 **Sec. 6. 7 MRSA §2449, sub-§6** is enacted to read:

15 **6. Effective date.** This section takes effect February 1, 2018.

16 **Sec. 7. 7 MRSA §2450, first ¶**, as enacted by IB 2015, c. 5, §1, is amended to
17 read:

18 ~~A~~ Beginning February 1, 2018, a license granted under the provisions of this chapter
19 is not transferable except as provided in this section, but this section does not prevent a
20 change of location as provided in section 2451, subsection 7.

21 **Sec. 8. 7 MRSA §2451, first ¶**, as enacted by IB 2015, c. 5, §1, is amended to
22 read:

23 ~~The~~ Beginning February 1, 2018, the following provisions govern licensing in
24 general.

25 **Sec. 9. 7 MRSA §2452, sub-§1, ¶¶D and E**, as enacted by IB 2015, c. 5, §1, are
26 amended to read:

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

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

31 **Sec. 10. 7 MRSA §2452, sub-§5**, as enacted by IB 2015, c. 5, §1, is amended to
32 read:

33 **5. Use.** ~~A~~ Prior to February 1, 2018, a person may consume marijuana only in a
34 ~~nonpublic place including a private residence.~~ Beginning February 1, 2018, a person may
35 consume marijuana in a nonpublic place.

36 A. The prohibitions and limitations on smoking tobacco products in specified areas
37 in Title 22, chapters 262 and 263 apply to smoking marijuana.

1 B. A person who smokes marijuana in a public place other than as governed by Title
2 22, chapters 262 and 263 commits a civil violation for which a fine of not more than
3 \$100 may be adjudged.

4 C. This subsection may not be construed to shield any adult from federal
5 prosecution.

6 D. This subsection may not be construed to allow any adult to possess or consume
7 marijuana on federal property.

8 **Sec. 11. 7 MRSA §2452, sub-§6** is enacted to read:

9 **6. Possession of certain edibles.** Notwithstanding subsection 1, until February 1,
10 2018, a person may not possess edible retail marijuana products. This subsection does
11 not apply to marijuana products purchased for medical use pursuant to Title 22, chapter
12 558-C.

13 **Sec. 12. 7 MRSA §2453, sub-§4** is enacted to read:

14 **4. Effective date.** This section takes effect February 1, 2018.

15 **Sec. 13. 7 MRSA §2454, sub-§5** is enacted to read:

16 **5. Effective date.** This section takes effect February 1, 2018.

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

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

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

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

25 (3) Illegal transportation of drugs by a minor as provided in Title 22, section
26 2389, subsection 2;

27 **Sec. 15. 15 MRSA §3314, sub-§3-A**, as corrected by RR 2009, c. 2, §36, is
28 amended to read:

29 **3-A. Operator's license suspension for drug offenses.** The court may suspend for
30 a period of up to 6 months the license or permit to operate, right to operate a motor
31 vehicle and right to apply for and obtain a license of any person who violates section
32 3103, subsection 1, paragraph B; Title 17-A, chapter 45; ~~Title 22, section 2383,~~ unless the
33 ~~juvenile is authorized to possess marijuana for medical use pursuant to Title 22, chapter~~
34 ~~558-C;~~ Title 22, section 2389, subsection 2; or Title 28-A, section 2052 and is
35 adjudicated pursuant to this chapter to have committed a juvenile crime.

36 The court shall give notice of suspension and take physical custody of an operator's
37 license or permit as provided in Title 29-A, section 2434. The court shall immediately

1 forward the operator's license and a certified abstract of suspension to the Secretary of
2 State.

3 **Sec. 16. 36 MRSA §1817, sub-§8** is enacted to read:

4 **8. Effective date.** This section takes effect February 1, 2018.

5 **Sec. 17. Retroactivity.** This Act applies retroactively to January 30, 2017.

6 **Emergency clause.** In view of the emergency cited in the preamble, this
7 legislation takes effect when approved.

8 SUMMARY

9 This bill delays the effective date of most of the provisions of the Marijuana
10 Legalization Act as enacted by citizen initiative to February 1, 2018. The delayed
11 effective date does not apply to the provision in the initiated bill that repeals the Maine
12 Revised Statutes, Title 22, section 2382, subsection 1, which makes possession of up to 2
13 1/2 ounces of marijuana a civil violation, or the following provisions, which will be
14 effective as of January 30, 2017:

15 1. A person 21 years of age or older may use, possess or transport up to 2 1/2 ounces
16 of marijuana;

17 2. A person 21 years of age or older may transfer, without remuneration, up to 2 1/2
18 ounces of marijuana and up to 6 immature plants or seedlings to a person who is 21 years
19 of age or older;

20 3. A person 21 years of age or older may possess, grow, cultivate or transport up to 6
21 flowering marijuana plants, 12 immature plants and unlimited seedlings and possess all of
22 the marijuana produced by the plants at the person's residence; and

23 4. A person 21 years of age or older may consume marijuana in a private residence.

24 The bill clarifies that possession of a useable amount of marijuana by a juvenile is a
25 crime, unless that juvenile is authorized to possess marijuana for medical use. Finally,
26 the bill prohibits the possession of any edible retail marijuana products until February 1,
27 2018.