

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 799

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H.P. 579

House of Representatives, March 2, 2017

**An Act To Protect Landlords and Tenants from the Deleterious  
Effects of Marijuana Use**

(EMERGENCY)

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Reference to the Joint Select Committee on Marijuana Legalization Implementation  
suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative HANDY of Lewiston.  
Cosponsored by Representatives: BICKFORD of Auburn, FULLER of Lewiston, SHEATS of  
Auburn, TUELL of East Machias.

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,** the Marijuana Legalization Act was approved at referendum in November  
4 2016 and took effect January 30, 2017; and

5           **Whereas,** the Act, as amended by Public Law 2017, chapter 1, allows a person to  
6 cultivate marijuana for personal use and use marijuana or marijuana concentrate at that  
7 person's residence or another private residence, regardless of who owns the residence;  
8 and

9           **Whereas,** this provision impinges on the ability of a landlord to reduce the risk to  
10 tenants and property by prohibiting smoking on the property owned by that landlord; and

11           **Whereas,** this inability to protect the safety of tenants and property must be rectified  
12 as soon as possible; and

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

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

18           **Sec. 1. 14 MRSA §6030-G** is enacted to read:

19 **§6030-G. Marijuana possession policy**

20           **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
21 following terms have the following meanings.

22           A. "Landlord" means the owner of a property or other person acting on behalf of the  
23 owner of a property.

24           B. "Marijuana" means the leaves, stems, flowers and seeds of all species of the plant  
25 genus cannabis, whether growing or not, and includes marijuana concentrate, as  
26 defined in Title 7, section 2422, subsection 22-A.

27           C. "Policy" means the policy developed and enforced by a landlord pursuant to  
28 subsection 2 regarding the cultivation, possession or use of marijuana on the premises  
29 leased by the landlord.

30           **2. Marijuana cultivation, possession and use policy.** Notwithstanding Title 7,  
31 section 2452 or any other law to the contrary, a landlord may develop and enforce a  
32 policy to restrict or prohibit the cultivation, possession or use of marijuana on the  
33 premises leased by that landlord for residential purposes. The policy must state whether  
34 cultivation, possession or use of marijuana is prohibited on the premises, allowed on the  
35 entire premises or allowed in limited areas of the premises. If the landlord allows  
36 cultivation, possession or use of marijuana in limited areas on the premises, the policy

1 must identify the areas on the premises where cultivation, possession or use of marijuana  
2 is allowed.

3 **3. Notification of policy to potential tenants and tenants; acknowledgment.** A  
4 landlord who enters into a lease or tenancy at will agreement for residential premises  
5 shall provide written notice to a tenant or potential tenant regarding the allowance or  
6 prohibition of the cultivation, possession or use of marijuana on the residential premises  
7 that are used by a tenant or will be used by a potential tenant as a primary residence. A  
8 landlord who enters into a lease or tenancy at will agreement shall provide to the tenant or  
9 potential tenant a policy disclosure that notifies tenants or potential tenants of the policy  
10 in accordance with this subsection. A landlord may notify a tenant or potential tenant of  
11 the policy by:

12 A. Disclosing the policy in a written lease agreement; or

13 B. Providing a separate written notice to a tenant or potential tenant entering into a  
14 tenancy at will agreement.

15 Before a tenant or potential tenant enters into a contract or pays a deposit to rent or lease  
16 a property, the landlord shall obtain a written acknowledgment of the notification of the  
17 policy from the tenant or potential tenant.

18 **4. Private cause of action restricted.** This subsection restricts private causes of  
19 action based on violations of this section or policies provided to tenants or potential  
20 tenants pursuant to this section.

21 A. A tenant or potential tenant may not maintain a private cause of action against a  
22 landlord on the sole basis that the landlord failed to provide the policy disclosure  
23 required by this section.

24 B. A tenant or potential tenant may not use a violation of the policy by another  
25 tenant as the basis for a private cause of action against a landlord.

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

## 28 SUMMARY

29 This bill allows a landlord to restrict or prohibit the cultivation, possession or use of  
30 marijuana on residential premises rented by that landlord. This bill, similar to the law  
31 allowing a landlord to restrict smoking of tobacco on leased premises, requires the  
32 landlord to develop a policy regarding the allowance or prohibition of the cultivation,  
33 possession or use of marijuana, detailing those areas where it is allowed or prohibited,  
34 and provide notice of the policy to tenants and prospective tenants. This bill does not  
35 give a person who is aggrieved by the failure of the landlord to provide the policy or  
36 another tenant to abide by the policy a cause of action against the landlord.