

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1431

H.P. 985

House of Representatives, April 13, 2017

**An Act To Dedicate a Portion of the Tax on the Sale of Marijuana to
Substance Abuse Prevention and Treatment, Law Enforcement
Costs and Regulatory Oversight**

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 CRAIG of Brewer.
Cosponsored by Representatives: ALLEY of Beals, TUELL of East Machias.

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

2 **Sec. 1. 5 MRSA §20067, sub-§1-A**, as amended by PL 2011, c. 657, Pt. AA,
3 §45, is further amended to read:

4 **1-A. Advise the department.** The commission shall advise the department in the
5 development and implementation of significant policy matters relating to substance abuse
6 and make recommendations regarding the disbursement of funds from the Substance
7 Abuse Education, Prevention and Treatment Fund established in section 20068.

8 **Sec. 2. 5 MRSA §20068** is enacted to read:

9 **§20068. Substance Abuse Education, Prevention and Treatment Fund**

10 **1. Fund established; purposes.** The Substance Abuse Education, Prevention and
11 Treatment Fund, referred to in this section as "the fund," is established for the purpose of
12 providing funding for:

13 A. Programs for education regarding, prevention of and support and treatment for
14 substance abuse, including the prevention of marijuana use by minors;

15 B. Regulatory oversight of the retail marijuana industry; and

16 C. Increased costs to law enforcement agencies and the courts associated with the
17 retail marijuana industry.

18 **2. Administration; source of funding.** The fund is administered by the department.
19 The fund is a dedicated, nonlapsing fund into which payments are received in accordance
20 with Title 36, section 1817, subsection 7, paragraph B; Title 36, section 1818, subsection
21 3, paragraph B; and Title 36, section 1819, subsection 4, paragraph B.

22 **3. Disbursement of funds.** The department, after considering the recommendations
23 of the commission regarding the use of the fund pursuant to section 20067, shall direct
24 the State Controller to disburse funds for the purposes stated in subsection 1.

25 **4. Report.** The commissioner or the commissioner's designee shall report annually
26 by March 1st to the joint standing committees of the Legislature having jurisdiction over
27 health and human services matters, criminal justice matters and appropriations and
28 financial affairs. The report must include a description of the specific programs or
29 services for which money was provided from the fund, the revenue received into the fund
30 and the amount provided for each program or service. The report must describe any
31 collaborative efforts between the department, the Department of Public Safety and the
32 state licensing authority responsible for regulating and controlling the licensing of the
33 cultivation, manufacture, distribution, testing and sale of retail marijuana and retail
34 marijuana products in this State. The commissioner may submit recommendations for
35 legislation to the joint standing committees of the Legislature having jurisdiction over
36 health and human services matters, criminal justice matters and appropriations and
37 financial affairs, which are authorized to submit legislation related to the report to the
38 Legislature.

1 **Sec. 3. 36 MRSA §1817, sub-§2**, as enacted by IB 2015, c. 5, §3, is amended to
2 read:

3 **2. Sales tax on retail marijuana and retail marijuana products.** The
4 Notwithstanding section 1811, the sales tax on retail marijuana and retail marijuana
5 products is ~~40%~~ 15% and is the only tax charged on the sale of retail marijuana and retail
6 marijuana products at the point of final sale at a retail marijuana store or retail marijuana
7 social club.

8 **Sec. 4. 36 MRSA §1817, sub-§7**, as enacted by IB 2015, c. 5, §3, is repealed and
9 the following enacted in its place:

10 **7. Application of tax revenues.** All sales tax revenue collected pursuant to this
11 section must be distributed as follows:

12 A. Ninety-five percent must be deposited in the General Fund. None of the funds
13 deposited in the General Fund pursuant to this paragraph may be used to directly fund
14 any new state programs, except that revenue may be appropriated to the Maine
15 Criminal Justice Academy for the purpose of training law enforcement personnel on
16 retail marijuana and retail marijuana products laws and rules. Funds appropriated to
17 the Maine Criminal Justice Academy pursuant to this paragraph may be used only for
18 the actual costs incurred to provide the necessary education and training of law
19 enforcement personnel; and

20 B. Five percent must be deposited in the Substance Abuse Education, Prevention and
21 Treatment Fund established in Title 5, section 20068 to be used for substance abuse
22 prevention, treatment and education programs, including programs for persons under
23 21 years of age, and regulatory oversight of the cultivation, manufacture, sale and
24 distribution of retail marijuana and retail marijuana products.

25 **Sec. 5. 36 MRSA §§1818 and 1819** are enacted to read:

26 **§1818. Tax on the sale of medical marijuana**

27 **1. Imposition of tax; rate.** A tax is imposed on marijuana sold by a registered
28 nonprofit dispensary or registered primary caregiver to a qualifying patient or registered
29 primary caregiver pursuant to Title 22, chapter 558-C. Notwithstanding section 1811, the
30 rate of the tax is 15%.

31 **2. Exclusive tax.** No other tax may be imposed on the retail sale of marijuana
32 subject to the tax imposed pursuant to subsection 1.

33 **3. Application of tax revenues.** All sales tax revenue collected pursuant to this
34 section must be distributed as follows:

35 A. Ninety-five percent must be deposited in the General Fund; and

36 B. Five percent must be deposited in the Substance Abuse Education, Prevention and
37 Treatment Fund established in Title 5, section 20068 to be used for the purposes
38 specified in Title 5, section 20068, subsection 1.

1 **§1819. Wholesale tax on marijuana**

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

4 A. "Cannabis" means all parts of the plant of the genus Cannabis whether growing or
5 not, the seeds thereof, the resin extracted from any part of the plant and every
6 compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds
7 or its resin including cannabis concentrate. "Cannabis" does not include industrial
8 hemp, fiber produced from the stalks, oil, cake made from the seeds of the plant,
9 sterilized seed of the plant that is incapable of germination or any ingredient
10 combined with cannabis to prepare topical or oral administrations, food, drink or any
11 other product. "Cannabis" also means marijuana.

12 B. "Edible retail marijuana product" means any retail marijuana product that is
13 intended to be consumed orally, including, but not limited to, any type of food, drink
14 or pill.

15 C. "Marijuana" means cannabis.

16 D. "Retail marijuana cultivation facility" means an entity licensed to cultivate,
17 prepare and package retail marijuana and sell retail marijuana to retail marijuana
18 establishments and retail marijuana social clubs under Title 7, chapter 417.

19 E. "Retail marijuana establishment" means a retail marijuana store, a retail marijuana
20 cultivation facility, a retail marijuana products manufacturing facility or a retail
21 marijuana testing facility as defined in Title 7, section 2442.

22 F. "Retail marijuana product" means concentrated retail marijuana and retail
23 marijuana products that are composed of retail marijuana and other ingredients and
24 are intended for use or consumption, including, but not limited to, edible retail
25 marijuana products, ointments and tinctures.

26 G. "Retail marijuana social club" means an entity licensed to sell retail marijuana
27 and retail marijuana products to consumers for consumption on the licensed premises
28 under Title 7, chapter 417.

29 H. "Retail marijuana store" means an entity licensed to purchase retail marijuana
30 from a retail marijuana cultivation facility and to purchase retail marijuana products
31 from a retail marijuana products manufacturing facility and to sell retail marijuana
32 and retail marijuana products to consumers under Title 7, chapter 417.

33 **2. Rate of tax.** A tax is imposed on the wholesale sale of marijuana and retail
34 marijuana products under Title 7, chapter 417 at the rate of 3%.

35 **3. Imposition.** A tax is imposed at the time marijuana or retail marijuana products
36 are sold to a retail marijuana store or retail marijuana social club by a retail marijuana
37 cultivation facility or retail marijuana products manufacturing facility for resale by the
38 retail marijuana store or retail marijuana social club. The tax imposed pursuant to this
39 section is a tax on the retail marijuana store or retail marijuana social club.

40 **4. Application of tax revenues.** All tax revenue collected pursuant to this section
41 must be distributed as follows:

