

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1527

H.P. 1051

House of Representatives, April 25, 2017

**An Act To Ensure Safety, Quality and Transparency in the Medical
Marijuana Market and To Ensure Sufficient Funding for
Regulation and Enforcement with Respect to the Retail Marijuana
Industry**

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 PERRY of Calais.
Cosponsored by Senator MAKER of Washington and
Representatives: DENNO of Cumberland, SANDERSON of Chelsea, TUELL of East Machias.

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

2 **Sec. 1. 7 MRSA §2442, sub-§41**, as enacted by IB 2015, c. 5, §1, is amended to
3 read:

4 **41. Retail marijuana testing facility.** "Retail marijuana testing facility" means an
5 entity licensed and certified to analyze and certify the safety and potency of retail
6 marijuana ~~and~~, retail marijuana products ~~and~~ marijuana and marijuana products produced
7 by registered primary caregivers registered pursuant to Title 22, section 2425, subsection
8 4 and dispensaries registered pursuant to Title 22, section 2428, subsection 2, paragraph
9 A.

10 **Sec. 2. 22 MRSA §2422, sub-§5-C, ¶A**, as enacted by PL 2015, c. 475, §3, is
11 amended to read:

12 A. Is licensed, certified or otherwise approved ~~by the department~~ in accordance with
13 rules adopted ~~by the department~~ under section 2423-A, subsection 10, paragraph D ~~or~~
14 Title 7, chapter 417 to analyze contaminants in and the potency and cannabinoid
15 profile of samples; and

16 **Sec. 3. 22 MRSA §2422, sub-§14-B** is enacted to read:

17 **14-B. THC.** "THC" means tetrahydrocannabinol.

18 **Sec. 4. 22 MRSA §2423-E, sub-§9**, as enacted by PL 2015, c. 475, §18, is
19 repealed and the following enacted in its place:

20 **9. Labels.** A registered primary caregiver shall affix a label on the packaging of any
21 marijuana or product containing marijuana provided to a qualifying patient and that label
22 must include, when applicable:

23 A. The registration number of the registered primary caregiver;

24 B. A net weight statement;

25 C. THC potency;

26 D. Solvents used in marijuana extraction; and

27 E. Amount of THC per serving and the number of servings per package for the
28 marijuana or product.

29 If a label contains information about contaminants, the cannabinoid profile or potency of
30 the marijuana or product containing marijuana, this information on the label must be
31 verified by a marijuana testing facility that is not owned by the registered primary
32 caregiver if there is a marijuana testing facility licensed, certified or approved in
33 accordance with this chapter.

34 **Sec. 5. 22 MRSA §2423-E, sub-§§10 to 13** are enacted to read:

35 **10. Inspection of books and records.** A registered primary caregiver shall keep a
36 complete set of all books and records in an electronic software system with an audit trail

1 capability necessary to show fully the business transactions of the registered primary
2 caregiver in an unalterable electronic form with audit trail capabilities for a period
3 comprising the current tax year and the 5 immediately preceding tax years.

4 All books and records must be made available at all times during business hours for the
5 inspection and examination by the department or its duly authorized representatives.

6 The department may require an annual inspection by an inspector to be selected by the
7 department and may require the registered primary caregiver to furnish such information
8 as the department considers necessary for the proper administration of this chapter. The
9 cost of the inspection must be set annually by the department and must be paid by the
10 registered primary caregiver. The department may require an audit to be made of the
11 books and records on such occasions as it may consider necessary by an auditor to be
12 selected by the department, and the cost of the audit must be paid by the registered
13 primary caregiver. The inspector or auditor must have access to all premises, books and
14 records of the registered primary caregiver.

15 **11. Independent testing and certification program.** A registered primary
16 caregiver is subject to the independent testing and certification program developed and
17 implemented pursuant to Title 7, section 2445 and rules adopted pursuant to Title 7,
18 chapter 417, and:

19 A. Testing must include, but is not limited to, analysis for residual solvents, poisons
20 and toxins; harmful chemicals; dangerous molds and mildew; harmful microbes, such
21 as Escherichia coli and salmonella; and pesticides;

22 B. If test results indicate the presence of quantities of any substance determined to be
23 injurious to health in any product, these products must be immediately quarantined
24 and immediate notification to the persons responsible for enforcing the marijuana
25 laws must be made. These products must be documented and properly destroyed; and

26 C. Testing must verify THC potency representations included on a label.

27 **12. Inspection.** Any premises where marijuana or marijuana products are stored,
28 cultivated, processed, sold, dispensed or tested by a registered primary caregiver who
29 cultivates marijuana for medical use by a qualifying patient is subject to reasonable
30 inspection by the department. The department may enter the cultivation site at any time,
31 without notice, to carry out an inspection under this subsection. When any part of the
32 premises consists of a locked area, upon demand to the registered primary caregiver this
33 area must be made available for inspection, and, upon request by authorized
34 representatives of the State or municipality, the registered primary caregiver shall open
35 the area for inspection.

36 **13. Local safety inspections.** A registered primary caregiver, whether operating in
37 the registered primary caregiver's primary residence or on premises that are not the
38 registered primary caregiver's primary residence, may be subject to reasonable inspection
39 by the local fire department, building inspector or code enforcement officer to confirm
40 that no health or safety concerns are present and to enforce any applicable local ordinance
41 or regulation. Local ordinances and regulations apply to registered primary caregivers
42 subject to subsection 1 and section 2428, subsection 10.

1 **Sec. 6. 22 MRSA §2428, sub-§5**, as amended by PL 2011, c. 407, Pt. B, §32, is
2 further amended to read:

3 **5. Inspection.** A dispensary and any additional location at which the dispensary
4 cultivates marijuana for medical use by a qualifying patient who has designated the
5 dispensary to cultivate for the patient are subject to reasonable inspection by the
6 department. The department may enter the dispensary and the one permitted additional
7 location at which the dispensary cultivates marijuana at any time, without notice, to carry
8 out an inspection under this subsection.

9 The premises, including any places of storage, where prepared marijuana or marijuana
10 plants are stored, cultivated, sold, dispensed or tested are subject to inspection by the
11 State or the municipality in which the premises are located and by the investigators of the
12 State or municipality during all business hours and other times of apparent activity for the
13 purpose of inspection or investigation. Access must be granted during business hours for
14 examination of any inventory or books and records required to be kept by a dispensary.
15 When any part of the premises consists of a locked area, upon demand to the dispensary
16 this area must be made available for inspection, and, upon request by authorized
17 representatives of the State or municipality, the dispensary shall open the area for
18 inspection.

19 **Sec. 7. 22 MRSA §2428, sub-§12**, as enacted by PL 2015, c. 475, §24, is
20 repealed and the following enacted in its place:

21 **12. Labels.** A registered dispensary shall affix a label on the packaging of any
22 marijuana or product containing marijuana provided to a qualifying patient and that label
23 must include, when applicable:

24 A. The registration number of the registered dispensary;

25 B. A net weight statement;

26 C. THC potency;

27 D. Solvents used in marijuana extraction; and

28 E. Amount of THC per serving and the number of servings per package for the
29 marijuana or product.

30 If a label contains information about contaminants, the cannabinoid profile or potency of
31 the marijuana or product containing marijuana, this information on the label must be
32 verified by a marijuana testing facility that is not owned by the registered dispensary if
33 there is a marijuana testing facility licensed, certified or approved in accordance with this
34 chapter.

35 **Sec. 8. 22 MRSA §2428, sub-§§13 to 16** are enacted to read:

36 **13. Inspection of books and records.** A registered dispensary shall keep a
37 complete set of all books and records in an electronic software system with an audit trail
38 capability necessary to show fully the business transactions of the registered dispensary in
39 an unalterable electronic form with audit trail capabilities for a period comprising the
40 current tax year and the 5 immediately preceding tax years.

1 All books and records must be made available at all times during business hours for the
2 inspection and examination by the department or its duly authorized representatives.

3 The department may require an annual audit by an auditor to be selected by the
4 department and may require any registered dispensary to furnish such information as the
5 department considers necessary for the proper administration of this chapter and may
6 require an audit to be made of the books of account and records on such occasions as the
7 department may consider necessary by an auditor to be selected by the department. The
8 auditor must have access to all books and records of the registered dispensary, and the
9 cost of the audit must be paid by the registered dispensary.

10 **14. Audits.** A registered dispensary shall obtain an independent financial audit
11 annually, at the registered dispensary's expense, and shall provide a copy of the audit's
12 findings to the department. This copy must be submitted to the department no later than
13 60 days prior to the registration expiration date, or at another time as the department may
14 direct, for the previous fiscal year. When a registration is revoked, suspended or
15 surrendered or expires, a registered dispensary shall file a final copy of the audit no later
16 than 30 days following revocation, suspension, surrender or expiration.

17 **15. Independent testing and certification program.** A registered dispensary is
18 subject to the independent testing and certification program developed and implemented
19 pursuant to Title 7, section 2445 and rules adopted pursuant to Title 7, chapter 417, and:

20 A. Testing must include, but is not limited to, analysis for residual solvents, poisons
21 and toxins; harmful chemicals; dangerous molds and mildew; harmful microbes, such
22 as Escherichia coli and salmonella; and pesticides;

23 B. If test results indicate the presence of quantities of any substance determined to be
24 injurious to health in any products, these products must be immediately quarantined
25 and immediate notification to the persons responsible for enforcing the marijuana
26 laws must be made. These products must be documented and properly destroyed; and

27 C. Testing must verify THC potency representations included on a label.

28 **16. Local safety inspections.** A registered dispensary may be subject to inspection
29 by the local fire department, building inspector or code enforcement officer to confirm
30 that no health or safety concerns are present or to enforce any applicable local ordinance
31 or regulation. Local ordinances and regulations apply to registered dispensaries subject
32 to subsection 10 and section 2423-E, subsection 1.

33 **Sec. 9. 36 MRSA §1817, sub-§2,** as enacted by IB 2015, c. 5, §3, is repealed and
34 the following enacted in its place:

35 **2. Tax on retail marijuana and retail marijuana products.** The tax on retail
36 marijuana and retail marijuana products is as follows.

37 A. A retail marijuana store and retail marijuana social club shall pay a special tax at
38 the rate of 20% of the sales price for the retail marijuana and retail marijuana
39 products sold at that retail marijuana store or retail marijuana social club.

40 B. In addition to the special tax in paragraph A, retail marijuana and retail marijuana
41 products are subject to the state sales tax under this chapter.

1 The bureau shall review the tax rate established under this subsection annually and report
2 its findings and make recommendations to the Legislature as appropriate regarding
3 adjustment to the tax rate.

4 **Sec. 10. 36 MRSA §1817, sub-§3**, as enacted by IB 2015, c. 5, §3, is amended to
5 read:

6 **3. Returns; payment of tax; penalty.** A retail marijuana store or retail marijuana
7 social club shall prepare and file with the State Tax Assessor, on or before the last 15th
8 day of each month, a return made under penalty of perjury on a form prescribed and
9 furnished by the state licensing authority together with payment of the sales tax due under
10 this section. The return must report all sales of retail marijuana and retail marijuana
11 products within the State during the preceding calendar month and such other information
12 as the assessor requires. A retail marijuana store or retail marijuana social club shall keep
13 a complete and accurate record in an unalterable electronic form at its principal place of
14 business to substantiate all receipts and sales of retail marijuana and retail marijuana
15 products.

16 **Sec. 11. 36 MRSA §1817, sub-§7**, as enacted by IB 2015, c. 5, §3, is repealed
17 and the following enacted in its place:

18 **7. Application of special tax revenues.** The following provisions govern the
19 application of revenues received from imposition of the special tax collected pursuant to
20 subsection 2, paragraph A. On or before the last day of each month, the State Controller
21 shall transfer the funds to the General Fund except that:

22 A. Forty-five percent of the revenue must be forwarded directly to the Department of
23 Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery
24 Operations to fund administration, regulatory development and enforcement of Title
25 7, chapter 417;

26 B. Five percent of the revenue must be credited to the Department of Health and
27 Human Services, Maine Center for Disease Control and Prevention for the purpose of
28 an ongoing public awareness campaign to reduce youth marijuana, alcohol and
29 tobacco consumption; and

30 C. Ten percent of the revenue must be credited to fund up to 14 Investigative Agent
31 positions in the Department of Public Safety, Maine Drug Enforcement Agency
32 established after the effective date of this paragraph, up to 4 Assistant Attorney
33 General positions established after the effective date of this paragraph that will be
34 dedicated to prosecuting drug crimes and up to 4 District Court Judge positions
35 established after the effective date of this paragraph to hear criminal drug cases, one
36 to sit in Presque Isle, one to sit in Bangor, one to sit in Lewiston and one to sit in
37 Portland.

38 Revenue may be appropriated to the Maine Criminal Justice Academy for the purpose of
39 training law enforcement personnel on retail marijuana and retail marijuana products laws
40 and rules. Funds appropriated to the Maine Criminal Justice Academy pursuant to this
41 subsection may be used only for the actual costs incurred to provide the necessary
42 education and training of law enforcement personnel.

