

# MAINE STATE LEGISLATURE

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L.D. 1539

Date: 6/21/18

(Filing No. H-799)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
128TH LEGISLATURE  
SECOND SPECIAL SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1060,  
L.D. 1539, Bill, "An Act To Amend Maine's Medical Marijuana Law"

Amend the amendment by striking out all of sections 1 to 3.

Amend the amendment in section 6 in the first line (page 3, line 3 in amendment) by striking out the following: "2015, c. 475, §§1 to 5" and inserting the following: '2017, c. 409, Pt. B, §2'

Amend the amendment in section 6 by striking out all of subsections 1-C to 2 (page 3, lines 22 to 38 and page 4, lines 1 to 7 in amendment) and inserting the following:

~~'1-C. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.~~

1-D. Assistant. "Assistant" means a person paid to perform a service for a caregiver, dispensary, manufacturing facility or marijuana testing facility in accordance with this chapter, whether as an employee or independent contractor.

1-E. Child-resistant. "Child-resistant" means, with respect to packaging or a container:

A. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and

B. With respect to any product intended for more than a single use or that contains multiple servings, resealable.

~~2. Debilitating medical condition. "Debilitating medical condition" means:~~

~~A. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, agitation of Alzheimer's disease, nail patella syndrome or the treatment of these conditions;~~

~~B. A chronic or debilitating disease or medical condition or its treatment that produces intractable pain, which is pain that has not responded to ordinary medical or surgical measures for more than 6 months;~~

1 ~~C. A chronic or debilitating disease or medical condition or its treatment that~~  
 2 ~~produces one or more of the following: cachexia or wasting syndrome; severe nausea;~~  
 3 ~~or seizures, including but not limited to those characteristic of epilepsy;~~

4 ~~D. Any other medical condition or its treatment as provided for in section 2424,~~  
 5 ~~subsection 2; or~~

6 ~~E. Post-traumatic stress disorder, inflammatory bowel disease, dyskinetic and spastic~~  
 7 ~~movement disorders and other diseases causing severe and persistent muscle spasms.~~

8 ~~2-A. Department. "Department" means the Department of Administrative and~~  
 9 ~~Financial Services.'~~

10 Amend the amendment in section 6 in §2422 in subsection 4-C in the last line (page  
 11 4, line 41 in amendment) by striking out the following: "or a physician assistant" and  
 12 inserting the following: 'a physician assistant or a naturopathic doctor'

13 Amend the amendment in section 6 in §2422 by inserting after subsection 5-C the  
 14 following:

15 '5-D. Naturopathic doctor. "Naturopathic doctor" means a person licensed as a  
 16 naturopathic doctor under Title 32, chapter 113-B.'

17 Amend the amendment by inserting after section 6 the following:

18 '**Sec. 7. 22 MRSA §2422-A**, as enacted by PL 2017, c. 409, Pt. E, §3, is repealed.'

19 Amend the amendment in section 8 in the first line (page 17, line 31 in amendment)  
 20 by striking out the following: "2015, c. 475, §15" and inserting the following: '2017, c.  
 21 409, Pt. E, §4'

22 Amend the amendment in section 8 in §2423-B by striking out all of subsection 2  
 23 (page 18, lines 1 to 20 in amendment) and inserting the following:

24 ~~2. Minor qualifying patient. Prior to providing written certification for the medical~~  
 25 ~~use of marijuana by a minor qualifying patient under this section, a medical provider,~~  
 26 ~~referred to in this subsection as "the treating medical provider," shall inform the minor~~  
 27 ~~qualifying patient and the parent or legal guardian of the patient of the risks and benefits~~  
 28 ~~of the medical use of marijuana and that the patient may benefit from the medical use of~~  
 29 ~~marijuana. Except with regard to a minor qualifying patient who is eligible for hospice~~  
 30 ~~care, prior to providing a written certification under this section, the treating medical~~  
 31 ~~provider shall consult with a qualified physician, referred to in this paragraph as "the~~  
 32 ~~consulting physician," from a list of physicians who may be willing to act as consulting~~  
 33 ~~physicians maintained by the department that is compiled by the department after~~  
 34 ~~consultation with the Department of Health and Human Services and statewide~~  
 35 ~~associations representing licensed medical professionals. The consultation between the~~  
 36 ~~treating medical provider and the consulting physician may consist of examination of the~~  
 37 ~~patient or review of the patient's medical file. The consulting physician shall provide an~~  
 38 ~~advisory opinion to the treating medical provider and the parent or legal guardian of the~~  
 39 ~~minor qualifying patient concerning whether the patient is likely to receive therapeutic or~~  
 40 ~~palliative benefit from the medical use of marijuana to treat or alleviate the patient's~~  
 41 ~~debilitating medical condition. If the department or the consulting physician does not~~  
 42 ~~respond to a request by the treating medical provider within 10 days of receipt of the~~

1 ~~request, the treating medical provider may provide written certification for treatment~~  
2 ~~without consultation with a physician.'~~

3 Amend the amendment in section 12 in §2423-F by striking out all of subsection 13  
4 (page 25, lines 19 to 32 in amendment) and inserting the following:

5 '13. Colocation of facilities. A manufacturing facility that is also licensed as a retail  
6 marijuana products manufacturing facility under Title 28-B, chapter 1 may manufacture  
7 marijuana products and marijuana concentrate within the same facility in which the  
8 licensee also manufactures marijuana products or marijuana concentrate for medical use  
9 pursuant to this chapter. The following items or areas within the shared facility may be  
10 shared for both manufacturing pursuant to this chapter and pursuant to Title 28-B, chapter  
11 1:

12 A. Manufacturing-related and nonmanufacturing-related equipment, except that  
13 manufacturing-related equipment may not be simultaneously used for manufacturing  
14 pursuant to this chapter and pursuant to Title 28-B, chapter 1;

15 B. Manufacturing-related and nonmanufacturing-related supplies or products not  
16 containing harvested marijuana and the storage areas for those supplies or products;  
17 and

18 C. General office space, bathrooms, entryways and walkways.'

19 Amend the amendment in section 13 in the first line (page 25, line 33 in amendment)  
20 by striking out the following: "2013, c. 394, §1" and inserting the following: '2017, c.  
21 409, Pt. E, §§5 and 6'

22 Amend the amendment in section 13 in §2424 by striking out all of subsections 1 and  
23 2 (page 25, lines 36 to 40 and page 26, lines 1 to 7 in amendment) and inserting the  
24 following:

25 '1-A. Rulemaking. The department may adopt rules to carry out the purposes of this  
26 chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in  
27 Title 5, chapter 375, subchapter 2-A.

28 ~~2. Adding debilitating medical conditions. The department in accordance with~~  
29 ~~section 2422, subsection 2, paragraph D shall adopt rules regarding the consideration of~~  
30 ~~petitions from the public to add medical conditions or treatments to the list of debilitating~~  
31 ~~medical conditions set forth in section 2422, subsection 2. In considering those petitions,~~  
32 ~~the department shall consult with the Department of Health and Human Services, Maine~~  
33 ~~Center for Disease Control and Prevention and provide an opportunity for public hearing~~  
34 ~~of, and an opportunity to comment on those petitions. After the hearing, the~~  
35 ~~commissioner shall approve or deny a petition within 180 days of its submission. The~~  
36 ~~approval or denial of such a petition constitutes final agency action, subject to judicial~~  
37 ~~review. Jurisdiction and venue for judicial review are vested in the Superior Court.'~~

38 Amend the amendment in section 14 in the first line (page 26, line 33 in amendment)  
39 by striking out the following: "corrected by RR 2017, c. 1, §13" and inserting the  
40 following: 'amended by PL 2017, c. 409, Pt. E, §§7 and 8'

1 Amend the amendment in section 15 in §2425-A in subsection 10 in paragraph G in  
 2 the last line (page 30, line 29 in amendment) by striking out the following: "7, chapter  
 3 417" and inserting the following: '28-B, chapter 1'

4 Amend the amendment in section 19 in the first line (page 34, line 26 in amendment)  
 5 by striking out the following: "2015, c. 475, §§22 to 24" and inserting the following:  
 6 '2017, c. 409, Pt. E, §9'

7 Amend the amendment in section 19 in §2428 by striking out all of subsection 11  
 8 (page 41, lines 27 to 33 in amendment) and inserting the following:

9 ~~'11. Limitation on number of dispensaries. The department shall adopt rules~~  
 10 ~~limiting the number and location of registered dispensaries. During the first year of~~  
 11 ~~operation of dispensaries the department may not issue more than one registration~~  
 12 ~~certificate for a dispensary in each of the 8 public health districts of the Department of~~  
 13 ~~Health and Human Services, as defined in section 411. After review of the first full year~~  
 14 ~~of operation of dispensaries and periodically thereafter, the department may amend the~~  
 15 ~~rules on the number and location of dispensaries; however, the number of dispensaries~~  
 16 ~~may not be less than 8.'~~

17 Amend the amendment in section 27 in the first line (page 46, line 16 in amendment)  
 18 by striking out the following: "2430-G" and inserting the following: '2430-H'

19 Amend the amendment by striking out all of section 28 and inserting the following:

20 '**Sec. 28. 28-B MRSA §102, sub-§46**, as enacted by PL 2017, c. 409, Pt. A, §6, is  
 21 amended to read:

22 **46. Registered dispensary.** "Registered dispensary" means a nonprofit dispensary  
 23 that is registered pursuant to has the same meaning as in Title 22, section ~~2428~~ 2422,  
 24 subsection 6.

25 **Sec. 29. 36 MRSA §191, sub-§3-B**, as enacted by PL 2013, c. 595, Pt. J, §2 and  
 26 affected by §4, is amended to read:

27 **3-B. Additional restrictions for certain information provided by the Department**  
 28 **of Health and Human Services.** Information provided to the assessor by the  
 29 Department of Health and Human Services pursuant to section 175 and Title 22, section  
 30 ~~2425, subsection 8~~ 2425-A, subsection 12, paragraph L may be used by the bureau only  
 31 for the administration and enforcement of taxes imposed under this Title. These  
 32 restrictions are in addition to those imposed by subsection 1.'

33 Amend the amendment by inserting after section 31 the following:

34 '**Sec. 32. PL 2017, c. 409, Pt. E, §12** is repealed.

35 **Sec. 33. Maine Revised Statutes, Title 28-B amended; revision clause.**  
 36 Wherever in the Maine Revised Statutes, Title 28-B the words "primary caregiver"  
 37 appear, or reference is made to that entity or those words, those words are amended to  
 38 read or mean, as appropriate, "caregiver" and wherever the words "registered primary  
 39 caregiver" appear, or reference is made to that entity or those words, those words are  
 40 amended to read or mean, as appropriate, "registered caregiver." The Revisor of Statutes  
 41 shall implement these revisions when updating, publishing or republishing the statutes.'

1 Amend the amendment in section 32 in the first line (page 54, line 13 in amendment)  
2 by striking out the following: "Affairs" and inserting the following: 'Services'

3 Amend the amendment by inserting after section 35 the following:

4 **'Sec. 36. Transfer of funds; Medical Use of Marijuana Fund.**  
5 Notwithstanding any provision of law to the contrary, the State Controller, no later than 5  
6 days after the effective date of this Act, shall transfer the balance of the Medical Use of  
7 Marijuana Fund in the Department of Administrative and Financial Services to the  
8 Medical Use of Marijuana Fund in the Department of Health and Human Services.

9 **Sec. 37. Appropriations and allocations.** The following appropriations and  
10 allocations are made.

11 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

12 **Medical Use of Marijuana Fund N280**

13 Initiative: Removes an allocation for 1.2 Public Service Coordinator II positions no  
14 longer being moved from the Medical Use of Marijuana Fund within the Department of  
15 Health and Human Services to the Medical Use of Marijuana Fund within the Department  
16 of Administrative and Financial Services.

17	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
18	Personal Services	\$0	(\$140,751)
19			
20	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$140,751)</b>

21 **Medical Use of Marijuana Fund N280**

22 Initiative: Removes an allocation for 0.5 Office Assistant II position no longer being  
23 moved from the Medical Use of Marijuana Fund within the Department of Health and  
24 Human Services to the Medical Use of Marijuana Fund within the Department of  
25 Administrative and Financial Services.

26	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
27	Personal Services	\$0	(\$29,636)
28			
29	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$29,636)</b>

30 **Medical Use of Marijuana Fund N280**

31 Initiative: Removes allocations for one Office Associate II position, one Social Services  
32 Manager I position, one Office Specialist I position and 2 Field Investigator positions no  
33 longer being moved from the Medical Use of Marijuana Fund within the Department of  
34 Health and Human Services to the Medical Use of Marijuana Fund within the Department  
35 of Administrative and Financial Services.

1	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
2	POSITIONS - LEGISLATIVE COUNT	0,000	(5,000)
3	Personal Services	\$0	(\$375,123)
4	All Other	\$0	(\$540,421)
5			
6	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$915,544)</b>

7	<b>ADMINISTRATIVE AND FINANCIAL</b>		
8	<b>SERVICES, DEPARTMENT OF</b>		
9	<b>DEPARTMENT TOTALS</b>	<b>2017-18</b>	<b>2018-19</b>
10			
11	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>(\$1,085,931)</b>
12			
13	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$1,085,931)</b>

14 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**  
 15 **Maine Center for Disease Control and Prevention 0143**

16 Initiative: Removes an ongoing allocation to restore to the Department of Health and  
 17 Human Services the 0.5 Office Assistant II position that is no longer being moved with  
 18 the Medical Use of Marijuana Fund as it is transferred from the Department of Health and  
 19 Human Services to the Department of Administrative and Financial Services.

20	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
21	Personal Services	\$0	(\$29,636)
22			
23	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>(\$29,636)</b>

24 **Maternal and Child Health Block Grant Match Z008**

25 Initiative: Removes an ongoing appropriation to restore to the Department of Health and  
 26 Human Services the 1.2 Public Service Coordinator II positions that are no longer being  
 27 moved with the Medical Use of Marijuana Fund as it is transferred from the Department  
 28 of Health and Human Services to the Department of Administrative and Financial  
 29 Services.

30	<b>GENERAL FUND</b>	<b>2017-18</b>	<b>2018-19</b>
31	Personal Services	\$0	(\$140,751)
32			
33	<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>(\$140,751)</b>

34 **Medical Use of Marijuana Fund Z118**

35 Initiative: Reinstates the allocation for 0.5 Office Assistant II position that is no longer  
 36 being moved with the Medical Use of Marijuana Fund as it is transferred from the

R. O. S.  
 HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1060, L.D. 1539

1 Department of Human Services to the Department of Administrative and Financial  
 2 Services.

3	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
4	Personal Services	\$0	\$29,636
5			
6	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$29,636</u>

7 **Medical Use of Marijuana Fund Z118**

8 Initiative: Reinstates the allocation for 1.2 Public Service Coordinator II positions that are  
 9 no longer being moved with the Medical Use of Marijuana Fund as it is transferred from  
 10 the Department of Health and Human Services to the Department of Administrative and  
 11 Financial Services.

12	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
13	Personal Services	\$0	\$140,751
14			
15	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$140,751</u>

16 **Medical Use of Marijuana Fund Z118**

17 Initiative: Allocates for one Office Associate II position, one Social Services Manager I  
 18 position, one Office Specialist I position and 2 Field Investigator positions that are no  
 19 longer being moved from the Medical Use of Marijuana Fund within the Department of  
 20 Health and Human Services to the Medical Use of Marijuana Fund within the Department  
 21 of Administrative and Financial Services.

22	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
23	POSITIONS - LEGISLATIVE COUNT	0.000	5.000
24	Personal Services	\$0	\$375,123
25	All Other	\$0	\$540,421
26			
27	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<u>\$0</u>	<u>\$915,544</u>

28 **HEALTH AND HUMAN SERVICES,**  
 29 **DEPARTMENT OF**  
 30 **DEPARTMENT TOTALS**

31		<b>2017-18</b>	<b>2018-19</b>
32	<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$140,751)</b>
33	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$1,056,295</b>
34			
35	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<u><b>\$0</b></u>	<u><b>\$915,544</b></u>



1	<b>SECTION TOTALS</b>	<b>2017-18</b>	<b>2018-19</b>
2			
3	<b>GENERAL FUND</b>	<b>\$0</b>	<b>(\$140,751)</b>
4	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>(\$29,636)</b>
5			
6	<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>(\$170,387)</b>
7			

8 Amend the amendment by relettering or renumbering any nonconsecutive Part letter  
9 or section number to read consecutively.

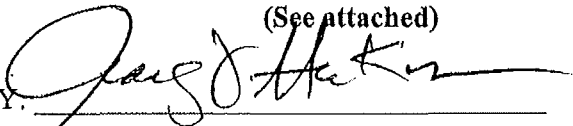
10 **SUMMARY**

11 This amendment changes the agency responsible for the administration of the Maine  
12 Medical Use of Marijuana Act program from the Department of Administrative and  
13 Financial Services to the Department of Health and Human Services. This amendment  
14 also allows naturopathic doctors to provide written certifications for the medical use of  
15 marijuana.

16 This amendment also corrects cross-references and terms in the Maine Medical Use  
17 of Marijuana Act to conform to the Maine Revised Statutes, Title 28-B, Adult Use  
18 Marijuana, as enacted in Public Law 2017, chapter 409, including providing for the  
19 change in the terms "primary caregiver" and "registered primary caregiver" to "caregiver"  
20 and "registered caregiver," respectively.

21 **FISCAL NOTE REQUIRED**

22 (See attached)

23 SPONSORED BY:   
24 (Representative HICKMAN)  
25 TOWN: Winthrop



# 128th MAINE LEGISLATURE

LD 1539

LR 1833(09)

## An Act To Amend Maine's Medical Marijuana Law

Fiscal Note for House Amendment "A" to Committee Amendment "A"

Sponsor: Rep. Hickman of Winthrop

Fiscal Note Required: Yes

### Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
<b>Net Cost (Savings)</b>				
General Fund	\$0	(\$140,751)	(\$140,751)	(\$140,751)
<b>Appropriations/Allocations</b>				
General Fund	\$0	(\$140,751)	(\$140,751)	(\$140,751)
Other Special Revenue Funds	\$0	(\$29,636)	(\$29,636)	(\$29,636)
<b>Revenue</b>				
Other Special Revenue Funds	\$0	\$0	\$0	\$0

### Fiscal Detail and Notes

This amendment would repeal sections of P.L. 2017, Chapter 409 that transferred the administration and enforcement of the Maine Medical Use of Marijuana Act from the Department of Health and Human Services (DHHS) to the Department of Administrative and Financial Services (DAFS). The amendment includes net deallocations to DAFS of \$1,085,931 and 6.25 positions beginning in fiscal year 2018-19 for the transfer from the Medical Use of Marijuana Fund within DAFS back to the Medical Use of Marijuana Fund within DHHS.

The amendment includes net allocations to DHHS of \$1,056,295 beginning in fiscal 2018-19 to repeal the transfer of the Medical Use of Marijuana Fund within the Department of Health and Human Services to the Medical Use of Marijuana Fund within the Department of Administrative and Financial Services. Additionally, \$140,751 is deappropriated from the Maternal and Child Health Block Grant Match program in DHHS and \$29,636 is deallocated to the Maine Center for Disease Control and Prevention to eliminate the creation of 1.2 Public Service Coordinator II positions and 0.5 Office Assistant II positions, since the positions they were created to replace will no longer be moving with the Medical Use of Marijuana Fund to DAFS.