

MAINE STATE LEGISLATURE

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SMJ
10/21/18

Date: 10/21/2018

(Filing No. S-537)

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STATE OF MAINE
SENATE
128TH LEGISLATURE
SECOND SPECIAL SESSION

SENATE AMENDMENT "E" 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. E, §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;~~

SENATE AMENDMENT

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 8 in the first line (page 17, line 31 in amendment)
11 by striking out the following: "2015, c. 475, §15" and inserting the following: '2017, c.
12 409, Pt. E, §4'

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

15 ~~'2. Minor qualifying patient. Prior to providing written certification for the medical~~
16 ~~use of marijuana by a minor qualifying patient under this section, a medical provider,~~
17 ~~referred to in this subsection as "the treating medical provider," shall inform the minor~~
18 ~~qualifying patient and the parent or legal guardian of the patient of the risks and benefits~~
19 ~~of the medical use of marijuana and that the patient may benefit from the medical use of~~
20 ~~marijuana. Except with regard to a minor qualifying patient who is eligible for hospice~~
21 ~~care, prior to providing a written certification under this section, the treating medical~~
22 ~~provider shall consult with a qualified physician, referred to in this paragraph as "the~~
23 ~~consulting physician," from a list of physicians who may be willing to act as consulting~~
24 ~~physicians maintained by the department that is compiled by the department after~~
25 ~~consultation with the Department of Health and Human Services and statewide~~
26 ~~associations representing licensed medical professionals. The consultation between the~~
27 ~~treating medical provider and the consulting physician may consist of examination of the~~
28 ~~patient or review of the patient's medical file. The consulting physician shall provide an~~
29 ~~advisory opinion to the treating medical provider and the parent or legal guardian of the~~
30 ~~minor qualifying patient concerning whether the patient is likely to receive therapeutic or~~
31 ~~palliative benefit from the medical use of marijuana to treat or alleviate the patient's~~
32 ~~debilitating medical condition. If the department or the consulting physician does not~~
33 ~~respond to a request by the treating medical provider within 10 days of receipt of the~~
34 ~~request, the treating medical provider may provide written certification for treatment~~
35 ~~without consultation with a physician.'~~

36 Amend the amendment in section 8 in §2423-B in subsection 2-A in paragraph D in
37 the 4th line (page 18, line 37 in amendment) by inserting after the following: "with" the
38 following: 'the Department of Health and Human Services and'

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

41 '13. Colocation of facilities. A manufacturing facility that is also licensed as a retail
42 marijuana products manufacturing facility under Title 28-B, chapter 1 may manufacture
43 marijuana products and marijuana concentrate within the same facility in which the

1 licensee also manufactures marijuana products or marijuana concentrate for medical use
2 pursuant to this chapter. The following items or areas within the shared facility may be
3 shared for both manufacturing pursuant to this chapter and pursuant to Title 28-B, chapter
4 1:

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

8 B. Manufacturing-related and nonmanufacturing-related supplies or products not
9 containing harvested marijuana and the storage areas for those supplies or products;
10 and

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

12 Amend the amendment in section 13 in the first line (page 25, line 33 in amendment)
13 by striking out the following: "2013, c. 394, §1" and inserting the following: '2017, c.
14 409, Pt. E, §§5 and 6'

15 Amend the amendment in section 13 in §2424 by striking out all of subsections 1 and
16 2 (page 25, lines 36 to 40 and page 26, lines 1 to 7 in amendment) and inserting the
17 following:

18 '1-A. Rulemaking. The department may adopt rules to carry out the purposes of this
19 chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in
20 Title 5, chapter 375, subchapter 2-A.

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

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

34 Amend the amendment in section 15 in §2425-A in subsection 10 in paragraph G in
35 the last line (page 30, line 29 in amendment) by striking out the following: "7, chapter
36 417" and inserting the following: '28-B, chapter 1'

37 Amend the amendment in section 19 in the first line (page 34, line 26 in amendment)
38 by striking out the following: "2015, c. 475, §§22 to 24" and inserting the following:
39 '2017, c. 409, Pt. E, §9'

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

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

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

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

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

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

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

19 **3-B. Additional restrictions for certain information provided by the Department**
20 **of Administrative and Financial Services.** Information provided to the assessor by the
21 Department of ~~Health and Human~~ Administrative and Financial Services pursuant to
22 section 175 and Title 22, section 2425, ~~subsection 8 2425-A, subsection 12,~~ paragraph L
23 may be used by the bureau only for the administration and enforcement of taxes imposed
24 under this Title. These restrictions are in addition to those imposed by subsection 1.'

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

27 Amend the amendment in section 33 in the 2nd line (page 54, line 19 in amendment)
28 by striking out the following: "Health and Human" and inserting the following:
29 'Administrative and Financial'

30 Amend the amendment in section 34 in the 2nd line (page 54, line 23 in amendment)
31 by striking out the following: "Health and Human" and inserting the following:
32 'Administrative and Financial'

33 Amend the amendment in section 35 in the first line (page 54, line 28 in amendment)
34 by inserting after the following: "The" the following: 'Department of Administrative and
35 Financial Services, in consultation with the'

36 Amend the amendment in section 35 in the 2nd line (page 54, line 29 in amendment)
37 by inserting after the following: "Services" the following: ','

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

39 '**Sec. 36. Maine Revised Statutes, Title 28-B amended; revision clause.**
40 Wherever in the Maine Revised Statutes, Title 28-B the words "primary caregiver"
41 appear, or reference is made to that entity or those words, those words are amended to

1 read or mean, as appropriate, "caregiver" and wherever the words "registered primary
 2 caregiver" appear, or reference is made to that entity or those words, those words are
 3 amended to read or mean, as appropriate, "registered caregiver." The Revisor of Statutes
 4 shall implement these revisions when updating, publishing or republishing the statutes.'

5 Amend the amendment by striking out all of section 36 and inserting in its place the
 6 following:

7 'Sec. 36. **Appropriations and allocations.** The following appropriations and
 8 allocations are made.

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

10 **Medical Use of Marijuana Fund N280**

11 Initiative: Provides funding for increased legal services.

| | | | |
|----|--|----------------|------------------|
| 12 | OTHER SPECIAL REVENUE FUNDS | 2017-18 | 2018-19 |
| 13 | All Other | \$0 | \$110,976 |
| 14 | | | |
| 15 | OTHER SPECIAL REVENUE FUNDS TOTAL | \$0 | \$110,976 |

16 **Medical Use of Marijuana Fund N280**

17 Initiative: Provides allocations to establish 2 Field Investigator positions and one Office
 18 Specialist I position for an increased number of investigations.

| | | | |
|----|--|----------------|------------------|
| 19 | OTHER SPECIAL REVENUE FUNDS | 2017-18 | 2018-19 |
| 20 | POSITIONS - LEGISLATIVE COUNT | 0.000 | 3.000 |
| 21 | Personal Services | \$0 | \$216,969 |
| 22 | All Other | \$0 | \$18,858 |
| 23 | | | |
| 24 | OTHER SPECIAL REVENUE FUNDS TOTAL | \$0 | \$235,827 |

25 **Revenue Services, Bureau of 0002**

26 Initiative: Provides funding for one Tax Examiner position and related costs to review
 27 and process income tax returns.

| | | | |
|----|-------------------------------|----------------|------------------|
| 28 | GENERAL FUND | 2017-18 | 2018-19 |
| 29 | POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| 30 | Personal Services | \$0 | \$61,865 |
| 31 | All Other | \$0 | \$49,429 |
| 32 | | | |
| 33 | GENERAL FUND TOTAL | \$0 | \$111,294 |

| | | | |
|---|-------------------------------------|----------------|------------------|
| 1 | ADMINISTRATIVE AND FINANCIAL | | |
| 2 | SERVICES, DEPARTMENT OF | | |
| 3 | DEPARTMENT TOTALS | 2017-18 | 2018-19 |
| 4 | | | |
| 5 | GENERAL FUND | \$0 | \$111,294 |
| 6 | OTHER SPECIAL REVENUE FUNDS | \$0 | \$346,803 |
| 7 | | | |
| 8 | DEPARTMENT TOTAL - ALL FUNDS | \$0 | \$458,097 |

9 **ATTORNEY GENERAL, DEPARTMENT OF THE**
 10 **Human Services Division 0696**

11 Initiative: Allocates funds for the costs of one full-time Assistant Attorney General
 12 position to advise the Department of Administrative and Financial Services on the
 13 interpretation of new medical marijuana program provisions and to assist with
 14 enforcement thereof and provides funding for related All Other costs.

| | | | |
|----|--|----------------|------------------|
| 15 | OTHER SPECIAL REVENUE FUNDS | 2017-18 | 2018-19 |
| 16 | POSITIONS - LEGISLATIVE COUNT | 0.000 | 1.000 |
| 17 | Personal Services | \$0 | \$99,306 |
| 18 | All Other | \$0 | \$11,670 |
| 19 | | | |
| 20 | OTHER SPECIAL REVENUE FUNDS TOTAL | \$0 | \$110,976 |

| | | | |
|----|--|----------------|------------------|
| 21 | ATTORNEY GENERAL, DEPARTMENT OF | | |
| 22 | THE | | |
| 23 | DEPARTMENT TOTALS | 2017-18 | 2018-19 |
| 24 | | | |
| 25 | OTHER SPECIAL REVENUE FUNDS | \$0 | \$110,976 |
| 26 | | | |
| 27 | DEPARTMENT TOTAL - ALL FUNDS | \$0 | \$110,976 |

| | | | |
|----|------------------------------------|----------------|------------------|
| 28 | SECTION TOTALS | 2017-18 | 2018-19 |
| 29 | | | |
| 30 | GENERAL FUND | \$0 | \$111,294 |
| 31 | OTHER SPECIAL REVENUE FUNDS | \$0 | \$457,779 |
| 32 | | | |
| 33 | SECTION TOTAL - ALL FUNDS | \$0 | \$569,073 |
| 34 | | | |

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

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SUMMARY

This amendment corrects cross-references and terms in the Maine Medical Use of Marijuana Act to conform to the Maine Revised Statutes, Title 28-B, Adult Use Marijuana, as enacted in Public Law 2017, chapter 409.

This amendment also provides for the change in the terms "primary caregiver" and "registered primary caregiver" to "caregiver" and "registered caregiver," respectively.

FISCAL NOTE REQUIRED

(See attached)

SPONSORED BY: 

(Senator HAMPER)

COUNTY: Oxford



128th MAINE LEGISLATURE

LD 1539

LR 1833(15)

An Act To Amend Maine's Medical Marijuana Law

Fiscal Note for Senate Amendment 'E' to Committee Amendment "A"

Sponsor: Sen. Hamper of Oxford

Fiscal Note Required: Yes

Fiscal Note

| | FY 2017-18 | FY 2018-19 | Projections FY 2019-20 | Projections FY 2020-21 |
|-----------------------------------|------------|------------|---------------------------|---------------------------|
| Net Cost (Savings) | | | | |
| General Fund | \$0 | \$0 | \$0 | \$0 |
| Appropriations/Allocations | | | | |
| Other Special Revenue Funds | \$0 | \$0 | \$0 | \$0 |
| Transfers | | | | |
| General Fund | \$0 | \$0 | \$0 | \$0 |
| Other Special Revenue Funds | \$0 | \$0 | \$0 | \$0 |

Fiscal Detail and Notes

This amendment corrects cross references to create consistency with Public Law 2017, Chapter 409, which 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). This amendment moves all allocations in the Medical Use of Marijuana Fund from DHHS to DAFS.