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Minority

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Date: 4/9/18 Minority

L.D. 1719
(Filing No. H-734)

**JOINT SELECT COMMITTEE ON MARIJUANA LEGALIZATION
IMPLEMENTATION**

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719, Bill, "An Act To Implement a Regulatory Structure for Adult Use Marijuana"

Amend the bill by striking out the title and substituting the following:

'An Act To Protect Liberty and Administer Justice in the Implementation and Enforcement of the Marijuana Legalization Act and To Replace the Term "Marijuana" with the Term "Cannabis" in the Maine Revised Statutes'

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'PART A

Sec. A-1. 5 MRSA §12004-I, sub-§§52-C and 52-D are enacted to read:

<u>52-C.</u>			
<u>Judiciary:</u>	<u>Marijuana Advisory</u>	<u>Expenses Only</u>	<u>7 MRSA §2460</u>
<u>Marijuana</u>	<u>Commission</u>		

<u>52-D.</u>			
<u>Judiciary:</u>	<u>Special Commission</u>	<u>Expenses Only</u>	<u>7 MRSA §2459</u>
<u>Marijuana</u>	<u>on Impaired Driving</u>		

Sec. A-2. 7 MRSA §2442, sub-§23-B is enacted to read:

23-B. Mature marijuana plant. "Mature marijuana plant" means a marijuana plant that is flowering.

Sec. A-3. 7 MRSA §2442, sub-§24-A is enacted to read:

COMMITTEE AMENDMENT

2018

1 24-A. Municipality. "Municipality" means a city, town or plantation that is not
2 located within the unorganized and deorganized areas; a town or plantation that is located
3 within the unorganized and deorganized areas; or in the case of a township that is located
4 within the unorganized and deorganized areas, the county commissioners of the county in
5 which the township is located.

6 **Sec. A-4. 7 MRSA §2442, sub-§29**, as enacted by IB 2015, c. 5, §1, is amended
7 to read:

8 **29. Plant canopy.** "Plant canopy" means the ~~area upon the licensed premises~~
9 ~~dedicated to live plant cultivation, such as maintaining mother plants, propagating plants~~
10 ~~from seed to plant tissue, cloning and maintaining a vegetative or flowering area.~~ "Plant
11 canopy" ~~does not include areas such as space for storage of fertilizers, pesticides or other~~
12 ~~products, quarantine areas, office space, walkways, work areas and other similar areas~~
13 total surface area within the licensed premises of a retail marijuana cultivation facility
14 that is authorized by the state licensing authority for use at any time by the retail
15 marijuana cultivation facility licensee to cultivate mature marijuana plants. The surface
16 area of the plant canopy must be calculated in square feet and measured using the outside
17 boundaries of the area and must include all of the area within the boundaries. If the
18 surface area of the plant canopy consists of noncontiguous areas, each component area
19 must be separated by identifiable boundaries. If a tiered or shelving system is used by the
20 retail marijuana cultivation facility licensee, the surface area of each tier or shelf must be
21 included in calculating the area of the plant canopy.

22 **Sec. A-5. 7 MRSA §2442, sub-§41-A** is enacted to read:

23 41-A. Sale or sell. "Sale" or "sell" means a transfer or delivery of marijuana or
24 marijuana products for consideration.

25 **Sec. A-6. 7 MRSA §2442, sub-§46-A** is enacted to read:

26 46-A. Unorganized and deorganized areas. "Unorganized and deorganized areas"
27 has the same meaning as in Title 12, section 682, subsection 1.

28 **Sec. A-7. 7 MRSA §2443-A** is enacted to read:

29 **§2443-A. Unauthorized conduct**

30 Except as otherwise provided in this chapter, in the rules adopted pursuant to this
31 chapter or in the Maine Medical Use of Marijuana Act, or as specifically authorized
32 pursuant to a license issued under this chapter, a person may not:

33 1. Cultivate, manufacture or test. Cultivate, manufacture or test marijuana or
34 marijuana products;

35 2. Sell or offer for sale. Sell or offer for sale marijuana or marijuana products; or

36 3. Use, possess, transport, transfer, furnish or purchase. Use, possess, transport,
37 transfer, furnish or purchase marijuana or marijuana products.

38 **Sec. A-8. 7 MRSA §2444, sub-§2**, as amended by PL 2017, c. 278, §4, is further
39 amended to read:

COMMITTEE AMENDMENT

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2. Adoption of rules by state licensing authority. The state licensing authority shall adopt rules for the proper regulation and control of the distribution, tracking and sale by retail marijuana stores of retail marijuana and retail marijuana products; for the licensing and operation of retail marijuana social clubs; and for the enforcement of this chapter and shall amend rules as necessary. For the purpose of adopting and amending rules pursuant to this subsection, the commissioner may ~~delegate rule-making authority granted under this section to~~ consult with the Commissioner of Agriculture, Conservation and Forestry, the Commissioner of Labor or the Commissioner of Public Safety if the commissioner determines that the expertise and resources of those other departments would be beneficial in the development of the rules and the enforcement of those rules. These Unless specified otherwise in this chapter, these rules are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. Rules must address but are not limited to the following issues:

A. The appeal of the denial of a license issued pursuant to this chapter at a public hearing, employing full due process, including the subpoena power, the taking of oaths, the calling of witnesses and the maintaining of the confidentiality of customer records. Provision must be made for the conduct of appeal hearings following license actions, including, but not limited to, the denial of a license renewal or of an initial license and license revocation and suspension, and hearings contesting the imposition of a fine;

B. The development of such forms, licenses, identification cards and applications as necessary for the administration of this chapter or of any of the rules adopted under this chapter;

C. The preparation and transmission annually, in the form and manner prescribed by this chapter, of a report to the Legislature accounting for the efficient discharge of all responsibilities assigned by law or rules to the state licensing authority;

D. Procedures consistent with this chapter for the issuance, renewal, suspension and revocation of licenses to operate retail marijuana establishments and retail marijuana social clubs;

F. Qualifications for licensure including, but not limited to, the requirement for a fingerprint-based criminal history record check for all owners, officers, managers, employees and other support staff of entities licensed pursuant to this chapter; and

G. Security requirements for any premises licensed as retail marijuana stores, retail marijuana testing facilities and retail marijuana social clubs under this chapter including, at a minimum, lighting, physical security, alarm requirements and other minimum procedures for internal control as determined necessary by the state licensing authority to properly administer and enforce the provisions of this chapter, including reporting requirements for changes, alterations or modifications to the licensed premises. Security requirements may not be unreasonably impracticable.

Sec. A-9. 7 MRSA §2444, sub-§3, as enacted by PL 2017, c. 278, §4, is amended to read:

3. Adoption of rules after consultation with Commissioner of Agriculture, Conservation and Forestry. The state licensing authority shall consult with the Commissioner of Agriculture, Conservation and Forestry ~~shall~~ and adopt rules for the

COMMITTEE AMENDMENT

ROFS

1 proper regulation and control of the cultivation, manufacture and testing of retail
2 marijuana and retail marijuana products and shall amend rules as necessary. For the
3 purpose of adopting and amending rules pursuant to this subsection, the ~~Commissioner of~~
4 ~~Agriculture, Conservation and Forestry may delegate rule-making authority granted under~~
5 ~~this section to the Commissioner of Administrative and Financial Services, state licensing~~
6 ~~authority may also consult with~~ the Commissioner of Labor or the Commissioner of
7 Public Safety if the ~~Commissioner of Agriculture, Conservation and Forestry~~
8 commissioner determines that the expertise and resources of those other departments
9 would be beneficial in the development of the rules and the enforcement of those rules.
10 Rules adopted pursuant to this subsection are major substantive rules as defined in Title
11 5, chapter 375, subchapter 2-A. Rules must address but are not limited to the following
12 issues:

13 A. The appeal of the denial of a license issued pursuant to this chapter at a public
14 hearing, employing full due process, including the subpoena power, the taking of
15 oaths, the calling of witnesses and the maintaining of the confidentiality of customer
16 records. Provision must be made for the conduct of appeal hearings following license
17 actions, including, but not limited to, the denial of a license renewal or of an initial
18 license and license revocation and suspension, and hearings contesting the imposition
19 of a fine;

20 B. The development of any forms, licenses, identification cards and applications that
21 are necessary for the administration of this chapter or of any of the rules adopted
22 under this chapter;

23 C. The preparation and transmission annually, in the form and manner prescribed by
24 this chapter, of a report to the Legislature accounting for the efficient discharge of all
25 responsibilities assigned by law or rules to the ~~Department of Agriculture,~~
26 ~~Conservation and Forestry~~ state licensing authority;

27 D. Procedures consistent with this chapter for the issuance, renewal, suspension and
28 revocation of licenses to operate retail marijuana cultivation facilities, retail
29 marijuana production facilities and retail marijuana testing facilities;

30 E. Limits on the concentration of THC and other cannabinoids per serving in any
31 retail marijuana product;

32 F. Security requirements for any premises licensed as a retail marijuana cultivation
33 facility, retail marijuana products manufacturing facility or retail marijuana testing
34 facility under this chapter including, at a minimum, lighting, physical security, alarm
35 requirements and other minimum procedures for internal control as determined
36 necessary by the state licensing authority to properly administer and enforce the
37 provisions of this chapter, including reporting requirements for changes, alterations
38 or modifications to the licensed premises. Security requirements may not be
39 unreasonably impracticable; and

40 G. Securing and recording permission for a local fire department or the State Fire
41 Marshal to conduct an annual fire inspection of a retail marijuana cultivation facility.

42 **Sec. A-10. 7 MRSA §2445, first ¶**, as amended by PL 2017, c. 309, §6, is further
43 amended to read:

COMMITTEE AMENDMENT

ROFS

1 ~~Beginning February 1, 2018, the~~ The state licensing authority shall establish an
2 independent testing and certification program for retail marijuana and retail marijuana
3 products. Except as otherwise provided in this section, the program must require a retail
4 marijuana licensee, prior to selling or furnishing retail marijuana or a retail marijuana
5 product to a consumer or to another licensee, to submit the marijuana or marijuana
6 product to a retail marijuana testing facility for testing pursuant to this section to ensure
7 that the marijuana or marijuana product does not exceed the maximum level of allowable
8 contamination for any contaminant that is injurious to health and for which testing is
9 required and to ensure correct labeling. The state licensing authority, after consultation
10 with the Commissioner of Agriculture, Conservation and Forestry, shall adopt rules
11 identifying the types of contaminants that are injurious to health for which marijuana and
12 marijuana products must be tested under this section and the maximum level of allowable
13 contamination for each contaminant.

14 **Sec. A-11. 7 MRSA §2445, sub-§§1 and 2,** as amended by PL 2017, c. 309, §6,
15 are further amended to read:

16 **1. Mandatory testing.** A retail marijuana licensee may not sell or furnish retail
17 marijuana or a retail marijuana product to a consumer or to another licensee under this
18 chapter unless the marijuana or marijuana product has been tested pursuant to this section
19 and rules adopted pursuant to this section and that mandatory testing has demonstrated
20 that the marijuana or marijuana product does not exceed the maximum level of allowable
21 contamination for any contaminant that is injurious to health and for which testing is
22 required. Mandatory testing of retail marijuana and retail marijuana products under this
23 section must include, but is not limited to, testing for residual solvents, poisons and
24 toxins; harmful chemicals; dangerous molds and mildew; harmful microbes, including,
25 but not limited to, Escherichia coli and salmonella; pesticides, fungicides and
26 insecticides; and THC potency, homogeneity and cannabinoid profiles for correct
27 labeling. ~~The Commissioner of Agriculture, Conservation and Forestry~~ state licensing
28 authority shall establish by rule processes, protocols and standards for mandatory and
29 other testing of marijuana and marijuana products that conform with the best practices
30 generally used within the marijuana testing industry.

31 **2. Notification requirements.** If the results of a mandatory test required under
32 subsection 1 indicate that the tested marijuana or marijuana product exceeds the
33 maximum level of allowable contamination for any contaminant that is injurious to health
34 and for which testing is required, the testing facility shall immediately quarantine,
35 document and properly destroy the marijuana or marijuana product, except when the
36 owner of the tested marijuana or marijuana product has successfully undertaken
37 remediation and retesting. If the results of a mandatory test indicate that the tested
38 marijuana or marijuana product exceeds the maximum level of allowable contamination
39 for any contaminant that is injurious to health and for which testing is required, the
40 testing facility shall within 30 days of completing the test notify the ~~Department of~~
41 ~~Agriculture, Conservation and Forestry~~ state licensing authority of the test results. A
42 testing facility is not required to notify the ~~Department of Agriculture, Conservation and~~
43 ~~Forestry~~ state licensing authority of the results of any test:

44 A. Conducted on marijuana or a marijuana product at the direction of a retail
45 marijuana licensee pursuant to subsection 1 that demonstrates that the marijuana or

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- 1 marijuana product does not exceed the maximum level of allowable contamination
- 2 for any contaminant that is injurious to health and for which testing is required;
- 3 B. Conducted on marijuana or a marijuana product at the direction of a retail
- 4 marijuana licensee for research and development purposes only, as long as the
- 5 licensee notifies the testing facility prior to the performance of the test that the testing
- 6 is for research and development purposes only;
- 7 C. Conducted on a substance that is not marijuana or a marijuana product at the
- 8 direction of any person; or
- 9 D. Conducted on marijuana or a marijuana product at the direction of any person
- 10 who is not a retail marijuana licensee.

11 **Sec. A-12. 7 MRSA §2446, sub-§2**, as amended by PL 2017, c. 278, §6, is
12 further amended to read:

13 **2. Health and safety rules.** The state licensing authority ~~and the Department of~~
14 ~~Agriculture, Conservation and Forestry, as provided in, in accordance with~~ section 2444,
15 subsections 2 and 3, shall adopt health and safety rules, which are ~~major substantive~~
16 routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, and standards for
17 the manufacture of retail marijuana products, the sale of retail marijuana by a retail
18 marijuana store and the cultivation of retail marijuana, which must include:

- 19 A. Limitations on the display of retail marijuana and retail marijuana products;
- 20 B. Regulation of the storage of, warehouses for and transportation of retail marijuana
- 21 and retail marijuana products; and
- 22 C. Sanitary requirements for retail marijuana establishments, including but not
- 23 limited to sanitary requirements for the preparation of retail marijuana products.

24 **Sec. A-13. 7 MRSA §2446, sub-§3**, as enacted by IB 2015, c. 5, §1, is amended
25 to read:

26 **3. Training for local jurisdictions and law enforcement officers.** The state
27 licensing authority shall adopt rules, which are ~~major substantive~~ routine technical
28 rules pursuant to Title 5, chapter 375, subchapter 2-A, and processes for training local
29 jurisdictions and law enforcement officers in the law, including the requirements for
30 inspections, investigations, ~~searches, seizures, forfeitures~~ restorative justice, jail
31 diversion, marijuana industry-specific technical assistance, mentoring programs for
32 economically disadvantaged persons in communities disproportionately affected by high
33 rates of arrest and incarceration for marijuana-related offenses and such additional
34 activities as may become necessary from time to time.

35 **Sec. A-14. 7 MRSA §2446, sub-§5**, as enacted by PL 2017, c. 1, §8, is repealed.

36 **Sec. A-15. 7 MRSA §2447, first ¶**, as amended by PL 2017, c. 1, §9, is further
37 amended to read:

38 ~~Beginning February 1, 2018, an~~ An application for a license under the provisions of
39 this chapter must be made to the state licensing authority on forms prepared and furnished
40 by the state licensing authority and must set forth such information as the state licensing
41 authority may require to enable the state licensing authority to determine whether a

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1 license should be granted. The information must include the name and address of the
2 applicant and the names and addresses of the applicant's officers, directors or managers.
3 Each application must be verified by the oath or affirmation of such person or persons as
4 the state licensing authority may prescribe. The state licensing authority may issue a
5 license to an applicant pursuant to this section upon completion of the applicable criminal
6 history record check associated with the application. The license is conditioned upon
7 municipal approval. An applicant is prohibited from operating a retail marijuana
8 establishment or retail marijuana social club without state licensing authority and
9 municipal approval. If the applicant does not receive municipal approval within one year
10 from the date of state licensing authority approval, the license expires and may not be
11 renewed. If an application is not approved by the municipality, the state licensing
12 authority shall revoke the license.

13 **Sec. A-16. 7 MRSA §2447, sub-§1, ¶H,** as enacted by IB 2015, c. 5, §1, is
14 amended to read:

15 H. The state licensing authority shall adopt rules, which are ~~major substantive~~
16 routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, for a
17 streamlined application process for registered caregivers and principal officers or
18 board members of dispensaries registered with the Department of Health and Human
19 Services pursuant to the Maine Medical Use of Marijuana Act, which must include an
20 initial site inspection confirming compliance with this chapter.

21 **Sec. A-17. 7 MRSA §2447, sub-§§5 and 6,** as enacted by IB 2015, c. 5, §1, are
22 repealed.

23 **Sec. A-18. 7 MRSA §2448,** as amended by PL 2017, c. 309, §§7 to 9, is further
24 amended to read:

25 **§2448. Classes of licenses; license provisions**

26 **1. State licensing authority may issue license.** For the purpose of regulating the
27 cultivation, manufacture, distribution, sale and testing of retail marijuana and retail
28 marijuana products, the state licensing authority, in its discretion, upon receipt of an
29 application in the prescribed form, may issue and grant to the applicant a license from one
30 or more of the following classes, subject to the provisions and restrictions provided by
31 this chapter:

- 32 A. Retail marijuana store license;
- 33 B. Retail marijuana cultivation facility license;
- 34 C. Retail marijuana products manufacturing facility license;
- 35 D. Retail marijuana testing facility license;
- 36 E. Retail marijuana social club license; ~~and~~
- 37 F. Occupational licenses and registrations for owners, managers, operators,
38 employees, contractors and other support staff employed at, working in or having
39 access to restricted access areas of the licensed premises, as determined by the state
40 licensing authority;

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G. Retail marijuana and retail marijuana products delivery and storage service licenses;

H. Transportation licenses for distribution between retail marijuana licensees;

I. Special event licenses permitting the consumption of marijuana and marijuana products on the premises of the event location; and

J. Research cultivation and research product manufacturing licenses.

For license classes authorized under this subsection, the state licensing authority shall ensure that the license privileges encourage competition with the unregulated recreational marijuana market and allow for small-scale cultivators or products manufacturers to have a streamlined application process for licenses that authorize retail sales directly to consumers. The state licensing authority shall adopt rules to facilitate Internet-based transactions by licensees under this chapter. The state licensing authority shall adopt rules to facilitate the provisions of this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

2. Licensee to collect tax. A retail marijuana store licensee or retail marijuana social club licensee shall collect sales tax on all retail sales made at a the retail marijuana store or retail marijuana social club, respectively.

3. Retail marijuana store license. The following provisions govern a retail marijuana store.

A. A licensed retail marijuana store may sell only retail marijuana, retail marijuana products, marijuana accessories, nonconsumable products such as apparel and marijuana-related products such as child-resistant containers, but is prohibited from selling or giving away any consumable product, including but not limited to cigarettes, alcohol and edible products that do not contain marijuana, including but not limited to sodas, candies and baked goods. Automatic dispensing machines that contain retail marijuana and retail marijuana products are prohibited.

A-1. Except as provided in paragraph A-2, a person may not consume retail marijuana or retail marijuana products on the licensed premises of a retail marijuana store and a retail marijuana store licensee may not allow a person to consume retail marijuana or retail marijuana products on its licensed premises.

A-2. The state licensing authority may issue to a retail marijuana store licensee a temporary on-premises consumption license that authorizes the licensee to allow the consumption of retail marijuana and retail marijuana products on its licensed premises during a specified event or for a limited period of time. The state licensing authority, as part of a pilot program developed by the state licensing authority by rule, may issue to a retail marijuana store licensee a permanent on-premises consumption license that generally authorizes the licensee to allow the consumption of retail marijuana and retail marijuana products on its licensed premises. The state licensing authority shall adopt rules to implement this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. A retail marijuana store licensee shall track all of its retail marijuana and retail marijuana products from the point at which they are transferred from a retail

1 marijuana cultivation facility or retail marijuana products manufacturing facility to
2 the point of sale.

3 All retail marijuana and retail marijuana products sold at a licensed retail marijuana
4 store must be packaged and labeled as required by rules of the state licensing
5 authority and pursuant to section 2446, subsection 1. Notwithstanding the provisions
6 of this section, a retail marijuana store licensee may also sell retail marijuana
7 products that are prepackaged and labeled as required by rules of the state licensing
8 authority and pursuant to section 2446, subsection 1.

9 C. A person must be 21 years of age or older to make a purchase in a retail marijuana
10 store.

11 (1) Prior to initiating a sale, the employee of the retail marijuana store making
12 the sale shall verify that the purchaser has a valid government-issued
13 identification card, or other acceptable identification, showing that the purchaser
14 is 21 years of age or older. If a person under 21 years of age presents a
15 fraudulent proof of age, any action relying on the fraudulent proof of age may not
16 be grounds for the revocation or suspension of any license issued under this
17 chapter.

18 (2) The state licensing authority shall adopt rules, which are routine technical
19 rules as described in Title 5, chapter 375, subchapter 2-A, to prohibit certain
20 signs, marketing and advertising, including but not limited to a prohibition on
21 mass-market campaigns that have a high likelihood of reaching persons under 21
22 years of age.

23 These rules may include:

24 (a) A prohibition on health or physical benefit claims in advertising,
25 merchandising and packaging;

26 (b) A prohibition on unsolicited advertising on the Internet;

27 (c) A prohibition on opt-in marketing that does not permit an easy and
28 permanent opt-out feature; and

29 (d) A prohibition on marketing directed toward location-based devices,
30 including but not limited to cellular phones, unless the marketing is a mobile
31 device application installed on the device by the owner of the device who is
32 21 years of age or older and includes a permanent and easy opt-out feature.

33 (3) A magazine whose primary focus is marijuana or marijuana businesses may
34 be sold only in a retail marijuana store or behind the counter in an establishment
35 where persons under 21 years of age are present.

36 (4) A retail marijuana product may not contain an additive designed to make the
37 product more appealing to children.

38 (5) Notwithstanding any other provision of state law, sales of retail marijuana
39 and retail marijuana products are not exempt from state sales tax.

PROFS

1 (6) Nothing in this chapter may be construed to limit a law enforcement agency's
2 ability to investigate ~~unlawful~~ suspected criminal activity in relation to a retail
3 marijuana establishment or retail marijuana social club. A law enforcement
4 agency may run a Maine criminal history record check of a licensee, or employee
5 of a licensee, during an investigation of ~~unlawful~~ suspected criminal activity
6 related to retail marijuana and retail marijuana products.

7 D. Retail marijuana and retail marijuana products may be transported between a
8 licensed retail marijuana store and retail marijuana stores, retail marijuana cultivation
9 facilities, retail marijuana products manufacturing facilities, retail marijuana social
10 clubs and retail marijuana testing facilities. Upon encountering the representative of
11 a retail marijuana store licensee who is transporting marijuana and marijuana
12 products on behalf of the licensee, a law enforcement officer shall presume that the
13 transportation of marijuana and marijuana products by the representative is legal and
14 in compliance with this chapter.

15 **4. Retail marijuana cultivation facility license.** The state licensing authority shall
16 create a statewide licensure class system for retail marijuana cultivation facilities. The
17 state licensing authority shall consult with the Commissioner of Agriculture,
18 Conservation and Forestry shall to adopt rules to implement the statewide licensure class
19 system. The licensure class system must establish license tiers and associated fees,
20 including a nursery cultivation facility license allowing for the sale of marijuana seeds
21 and immature marijuana plants, that is designed to encourage participation by farmers
22 and businesses of all sizes. The maximum plant canopy size for a retail marijuana
23 cultivation facility license is 15,000 square feet. For the lowest retail marijuana
24 cultivation facility license tier, an application fee may not exceed \$100 and the license fee
25 may not exceed \$500. For the highest retail marijuana cultivation facility license tier, the
26 application fee may not exceed \$500 and the license fee may not exceed \$15,000. The
27 licensure class system must also provide for licenses authorizing the operation of small
28 cultivator cooperatives, and the state licensing authority shall also consider any
29 recommendations made as part of the report described under section 2458. For the first
30 year of implementation of the licensure class system, no more than 40% of the marijuana
31 cultivation facility licenses issued may authorize more than 3,000 square feet of plant
32 canopy. The state licensing authority may not license multiple retail marijuana
33 cultivation facilities on a single parcel or tract of land that would allow more than a total
34 of 15,000 square feet of plant canopy among all licensees operating on that single parcel
35 or tract of land. Rules adopted pursuant to this subsection are ~~major substantive~~ routine
36 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

- 37 A. The following provisions govern retail marijuana cultivation facilities.
- 38 (1) A retail marijuana cultivation facility licensee is permitted to cultivate retail
39 marijuana for sale and distribution only to licensed retail marijuana stores, retail
40 marijuana products manufacturing facilities, other retail marijuana cultivation
41 facilities or retail marijuana social clubs.
- 42 (2) A retail marijuana cultivation facility may have a retail marijuana store if it is
43 located on the same licensed premises as the retail marijuana cultivation facility.
44 If the retail marijuana cultivation facility chooses the option to have a retail
45 marijuana store, it must meet all requirements set by the state licensing authority;

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "b" to H.P. 1199, L.D. 1719

1 the Department of Agriculture, Conservation and Forestry and the municipality in
2 which it is located. A retail marijuana store located on the licensed premises of a
3 retail marijuana cultivation facility does not count against any municipal limits
4 on the number of retail marijuana stores.

5 (3) A retail marijuana cultivation facility shall track the marijuana it cultivates
6 from seed, clone or immature plant to wholesale purchase. The ~~Commissioner of~~
7 ~~Agriculture, Conservation and Forestry~~ state licensing authority may not make
8 rules that are unreasonably impracticable concerning the tracking of marijuana
9 from seed, clone or immature plant to wholesale purchase.

10 (4) A retail marijuana cultivation facility may provide, except as required by
11 subsection 6, a sample of its products to a retail marijuana testing facility for
12 testing and research purposes. A retail marijuana cultivation facility shall
13 maintain a record of what was provided to the retail marijuana testing facility, the
14 identity of the retail marijuana testing facility and the testing results.

15 B. Retail marijuana may be transported between a licensed retail marijuana
16 cultivation facility and retail marijuana stores, other retail marijuana cultivation
17 facilities, retail marijuana products manufacturing facilities, retail marijuana social
18 clubs and retail marijuana testing facilities. Upon encountering the representative of
19 a retail marijuana cultivation facility licensee who is transporting marijuana and
20 marijuana products on behalf of the licensee, a law enforcement officer shall presume
21 that the transportation of marijuana and marijuana products by the representative is
22 legal and in compliance with this chapter.

23 **5. Retail marijuana products manufacturing facility license.** The following
24 provisions govern retail marijuana products manufacturing facilities and the preparation
25 of retail marijuana products.

26 A. The following provisions govern retail marijuana products manufacturing
27 facilities.

28 (1) A retail marijuana products manufacturing facility licensee is permitted to
29 manufacture retail marijuana products pursuant to the terms and conditions of
30 this chapter.

31 (2) A retail marijuana products manufacturing facility may cultivate its own
32 retail marijuana if it obtains a retail marijuana cultivation facility license, or it
33 may purchase retail marijuana from a licensed retail marijuana cultivation
34 facility. A retail marijuana products manufacturing facility licensee shall track
35 all of its retail marijuana from the point it is either transferred from its retail
36 marijuana cultivation facility or the point when it is delivered to the retail
37 marijuana products manufacturing facility from a licensed retail marijuana
38 cultivation facility to the point of transfer to a licensed retail marijuana store,
39 retail marijuana social club or retail marijuana testing facility.

40 B. A retail marijuana products manufacturing facility licensee may not:

41 (1) Add any marijuana to a food product if the manufacturer of the food product
42 holds a trademark to the food product's name, except that a retail marijuana
43 products manufacturing facility licensee may use a trademarked food product if

COMMITTEE AMENDMENT

PROFS

1 the licensee uses the product as a component or as part of a recipe and if the
2 licensee does not state or advertise to the consumer that the final retail marijuana
3 product contains a trademarked food product;

4 (2) Intentionally or knowingly label or package a retail marijuana product in a
5 manner that would cause a reasonable consumer confusion as to whether the
6 retail marijuana product was a trademarked food product;

7 (3) Label or package a product in a manner that violates any federal trademark
8 law or regulation; or

9 (4) Include harmful additives in any retail marijuana product, including, but not
10 limited to, those that are toxic, designed to make the product more addictive and
11 designed to make the product more appealing to children or misleading to
12 consumers, but not including common baking and cooking items.

13 C. The following provisions govern the preparation of retail marijuana products.

14 (1) Retail marijuana products must be prepared on licensed premises that are
15 used exclusively for the manufacture and preparation of retail marijuana or retail
16 marijuana products and prepared using equipment that is used exclusively for the
17 manufacture and preparation of retail marijuana and retail marijuana products.

18 (2) All licensed premises in which retail marijuana products are manufactured
19 must meet the sanitary standards for retail marijuana product preparation adopted
20 pursuant to section 2446, subsection 2 and must be licensed as commercial
21 kitchens by the Department of Health and Human Services.

22 (3) Retail marijuana products must be packaged, sealed and conspicuously
23 labeled in compliance with this chapter and any rules adopted pursuant to this
24 chapter.

25 (4) A retail marijuana products manufacturing facility licensee may provide a
26 sample of the licensee's products to a licensed retail marijuana testing facility
27 pursuant to subsection 6 for testing and research purposes. A retail marijuana
28 products manufacturing facility licensee shall maintain a record of what was
29 provided to the retail marijuana testing facility, the identity of the testing facility
30 and the results of the testing.

31 (5) A retail marijuana products manufacturing facility licensee may list
32 ingredients and compatibility with dietary practices on an edible retail marijuana
33 product.

34 (6) All retail marijuana products that require refrigeration to prevent spoilage
35 must be stored and transported in a refrigerated environment.

36 D. Nothing in this chapter may be construed to limit a law enforcement agency's
37 ability to investigate ~~unlawful~~ suspected criminal activity in relation to a retail
38 marijuana establishment. A law enforcement agency may run a Maine criminal
39 history record check of a licensee, or employee of a licensee, during an investigation
40 of ~~unlawful~~ suspected criminal activity related to retail marijuana and retail marijuana
41 products.

COMMITTEE AMENDMENT

P.O.F.S

COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719

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E. Retail marijuana products may be transported between a licensed retail marijuana products manufacturing facility and retail marijuana stores, other retail marijuana products manufacturing facilities, retail marijuana social clubs and retail marijuana testing facilities. Upon encountering the representative of a retail marijuana products manufacturing facility licensee who is transporting marijuana and marijuana products on behalf of the licensee, a law enforcement officer shall presume that the transportation of marijuana and marijuana products by the representative is legal and in compliance with this chapter.

6. Retail marijuana testing facility license. The state licensing authority may issue a full or a provisional retail marijuana testing facility license in accordance with this chapter to a person to operate a retail marijuana testing facility for the purposes of developing, researching and testing marijuana, marijuana products and other substances.

A. A person with an interest in a retail marijuana testing facility licensed under this chapter may not be a registered caregiver or have an interest in a registered dispensary or in a retail marijuana store, a retail marijuana social club, a retail marijuana cultivation facility or a retail marijuana products manufacturing facility licensed under this chapter. A person who is a registered caregiver or who has an interest in a registered dispensary or in a retail marijuana store, a retail marijuana social club, a retail marijuana cultivation facility or a retail marijuana products manufacturing facility licensed under this chapter may not have an interest in a retail marijuana testing facility licensed under this chapter. For purposes of this paragraph, "interest" means an ownership interest or partial ownership interest or any other type of financial interest, including, but not limited to, being an investor or serving in a management position.

B. Retail marijuana and retail marijuana products may be transported between a retail marijuana testing facility and a retail marijuana cultivation facility, a retail marijuana products manufacturing facility, a retail marijuana store and a retail marijuana social club. Upon encountering the representative of a retail marijuana testing facility licensee who is transporting marijuana and marijuana products on behalf of the licensee, a law enforcement officer shall presume that the transportation of marijuana and marijuana products by the representative is legal and in compliance with this chapter.

C. A licensed retail marijuana testing facility may not commence or continue operation unless the facility:

(1) Is certified for operation by the Department of Health and Human Services, Maine Center for Disease Control and Prevention in accordance with rules adopted by the state licensing authority in consultation with the Commissioner of Agriculture, Conservation and Forestry ~~in consultation with~~ and the Department of Health and Human Services, Maine Center for Disease Control and Prevention;

(2) Except as otherwise provided in this subparagraph, is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the ~~Commissioner of Agriculture, Conservation and Forestry~~ state licensing authority. ~~The Commissioner of Agriculture,~~

COMMITTEE AMENDMENT

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~~Conservation and Forestry~~ state licensing authority shall adopt rules regarding the scope of certification, registration or accreditation required for licensure as a retail marijuana testing facility.

The state licensing authority may issue a full retail marijuana testing facility license to a person who meets all applicable requirements of this chapter and rules adopted under this chapter and who has obtained accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization from a 3rd-party accrediting body or who is certified, registered or accredited by an approved organization.

The state licensing authority may issue a provisional retail marijuana testing facility license to a person who otherwise meets all applicable requirements of this chapter and rules adopted under this chapter and who has applied for but not yet obtained accreditation from a 3rd-party accrediting body or who has applied for but not yet obtained certification, registration or accreditation from an approved organization. The state licensing authority may not renew a provisional retail marijuana testing facility license more than once;

(3) Is determined by the ~~Department of Agriculture, Conservation and Forestry~~ state licensing authority to meet all operational and technical requirements for retail marijuana testing facilities under this chapter and applicable rules adopted under this chapter; and

(4) Is approved or licensed by the municipality in which the facility is physically located and notice of approval or licensure has been provided by the municipality to the state licensing authority.

D. A retail marijuana testing facility shall follow all testing protocols, standards and criteria adopted by rule by the ~~Commissioner of Agriculture, Conservation and Forestry~~ state licensing authority for the testing of different forms of marijuana and marijuana products; determining batch size; sampling; testing validity; and approval and disapproval of tested marijuana and marijuana products.

E. If a retail marijuana testing facility determines that a sample of marijuana or a marijuana product has failed testing, the facility shall offer to the owner of the sample that failed testing an opportunity for remediation and retesting in accordance with rules adopted by the ~~Commissioner of Agriculture, Conservation and Forestry~~ state licensing authority in accordance with this chapter.

F. A retail marijuana testing facility shall maintain records of all business transactions and testing results in accordance with the record-keeping requirements of subsection 8-A and in accordance with applicable standards for licensing and accreditation under paragraph C and testing protocols, standards and criteria adopted by the ~~Commissioner of Agriculture, Conservation and Forestry~~ state licensing authority under paragraph D.

G. A retail marijuana testing facility shall dispose of used, unused and waste marijuana and marijuana products in accordance with rules adopted by the ~~Commissioner of Agriculture, Conservation and Forestry~~ state licensing authority in accordance with this chapter.

COMMITTEE AMENDMENT

P.O.P.S

COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719

1 H. A retail marijuana testing facility shall notify the ~~Department of Agriculture,~~
2 ~~Conservation and Forestry~~ state licensing authority of test results in accordance with
3 section 2445, subsection 2.

4 I. A retail marijuana testing facility may develop, research and test marijuana and
5 marijuana products for that facility; for another retail marijuana establishment or a
6 retail marijuana social club; for a person who intends to use the marijuana or
7 marijuana product for personal use as allowed under this chapter; or for a qualifying
8 patient, a registered caregiver or a registered dispensary. A retail marijuana testing
9 facility may develop, research and test other substances that are not marijuana or
10 marijuana products for that facility or for any other person.

11 The state licensing authority, after consultation with the Commissioner of Agriculture,
12 Conservation and Forestry, shall adopt rules regarding the testing of marijuana and
13 marijuana products by retail marijuana testing facilities pursuant to this chapter,
14 including, but not limited to, rules establishing acceptable testing and research practices
15 for retail marijuana testing facilities, including, but not limited to, provisions relating to
16 testing practices, methods and standards; remediation and retesting procedures; quality
17 control analysis; equipment certification and calibration; chemical identification; testing
18 facility record-keeping, documentation and business practices; disposal of used, unused
19 and waste marijuana and marijuana products; and reporting of test results; rules
20 establishing an independent testing and certification program pursuant to section 2445;
21 and rules governing sampling and testing of retail marijuana and retail marijuana products
22 pursuant to section 2448, subsection 8-A. Rules adopted pursuant to this subsection are
23 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

24 **7. Retail marijuana social club license.** The following provisions govern retail
25 marijuana social clubs.

26 A. A licensed retail marijuana social club may sell only retail marijuana, retail
27 marijuana products, marijuana accessories, nonconsumable products such as apparel,
28 marijuana-related products and edible products that do not contain marijuana,
29 including but not limited to sodas, candies and baked goods, but may not sell or give
30 away cigarettes or alcohol. All retail marijuana and retail marijuana products
31 purchased at a licensed retail marijuana social club must be consumed or disposed of
32 on and may not be taken off the licensed premises.

33 B. A retail marijuana social club shall track all of its retail marijuana and retail
34 marijuana products from the point at which they are transferred from a retail
35 marijuana cultivation facility, retail marijuana store or retail marijuana products
36 manufacturing facility to the point of sale.

37 C. The following provisions govern procedures for preventing sales to persons under
38 21 years of age.

39 (1) Prior to allowing a person onto the retail marijuana social club's licensed
40 premises, an employee of the retail marijuana social club shall verify that the
41 person has a valid government-issued identification card, or other acceptable
42 identification, showing that the person is 21 years of age or older. If a person
43 under 21 years of age presents a fraudulent proof of age, any action relying on the

COMMITTEE AMENDMENT

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1 fraudulent proof of age may not be grounds for the revocation or suspension of
2 any license issued under this chapter.

3 (2) The state licensing authority shall adopt rules, which are routine technical
4 rules as described in Title 5, chapter 375, subchapter 2-A, to prohibit certain
5 signs, marketing and advertising, including but not limited to a prohibition on
6 mass-market campaigns that have a high likelihood of reaching persons under 21
7 years of age.

8 These rules may include:

9 (a) A prohibition on health or physical benefit claims in advertising,
10 merchandising and packaging;

11 (b) A prohibition on unsolicited advertising on the Internet;

12 (c) A prohibition on opt-in marketing that does not permit an easy and
13 permanent opt-out feature; and

14 (d) A prohibition on marketing directed toward location-based devices,
15 including but not limited to cellular phones, unless the marketing is a mobile
16 device application installed on the device by the owner of the device who is
17 21 years of age or older and includes a permanent and easy opt-out feature.

18 (3) Notwithstanding any other provision of state law, sales of retail marijuana
19 and retail marijuana products are not exempt from state sales tax.

20 (4) Nothing in this chapter may be construed to limit a law enforcement agency's
21 ability to investigate ~~unlawful~~ suspected criminal activity in relation to a retail
22 marijuana establishment. A law enforcement agency may run a Maine criminal
23 history record check of a licensee, or employee of a licensee, during an
24 investigation of ~~unlawful~~ suspected criminal activity related to retail marijuana
25 and retail marijuana products.

26 D. Retail marijuana and retail marijuana products may be transported between a
27 licensed retail marijuana social club and other retail marijuana social clubs or retail
28 marijuana testing facilities. Upon encountering the representative of a retail
29 marijuana social club licensee who is transporting marijuana and marijuana products
30 on behalf of the licensee, a law enforcement officer shall presume that the
31 transportation of marijuana and marijuana products by the representative is legal and
32 in compliance with this chapter.

33 **8-A. Inspections; record-keeping requirements; audit requirements; testing and
34 sampling for product quality control.** A retail marijuana licensee shall submit to
35 inspections and maintain business records in accordance with this subsection.

36 A. A licensee shall maintain a complete set of all records of the licensee's business
37 transactions, which must be open to inspection and examination by the state licensing
38 authority ~~or the Department of Agriculture, Conservation and Forestry~~ upon demand
39 and without notice during all business hours. Records must be maintained by a
40 licensee for a period comprising the current tax year and the 2 immediately preceding
41 tax years.

COMMITTEE AMENDMENT

R.O.F.S

COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719

1 B. The state licensing authority ~~or the Department of Agriculture, Conservation and~~
2 ~~Forestry~~ may require a licensee to furnish any additional information necessary for
3 the proper administration of this chapter and the state licensing authority may require
4 a licensee to submit to an audit of the licensee's business records. If the state
5 licensing authority requires a licensee to submit to an audit, the licensee shall provide
6 the auditor selected by the state licensing authority with access to all business records
7 of the licensee and the cost of the audit must be paid by the licensee.

8 C. A licensee shall submit to an inspection of the licensed premises, including any
9 places of storage, upon demand and without notice during all business hours and
10 other times of apparent activity by the state licensing authority, ~~the Department of~~
11 ~~Agriculture, Conservation and Forestry, a law enforcement agency~~ or an official
12 authorized by the municipality in which the licensed premises are located. If any part
13 of the licensed premises consists of a locked area, a licensee shall, upon demand of
14 the state licensing authority, ~~the Department of Agriculture, Conservation and~~
15 ~~Forestry, a law enforcement agency~~ or the official authorized by the municipality,
16 open the locked area for inspection.

17 D. A licensee shall submit to the sampling and testing of retail marijuana or retail
18 marijuana products upon demand and without notice during all business hours by the
19 ~~Department of Agriculture, Conservation and Forestry~~ state licensing authority for
20 the purposes of product quality control. Sampling and testing ~~by the Department of~~
21 ~~Agriculture, Conservation and Forestry~~ pursuant to this paragraph must be conducted
22 in accordance with the requirements of section 2445 and rules adopted pursuant to
23 section 2448, subsection 6.

24 **9. Product pricing.** Nothing in this chapter may be construed as granting to the
25 state licensing authority the power to fix prices for retail marijuana or retail marijuana
26 products.

27 **10. License fees.** The state licensing authority shall determine the revenue needed to
28 set up the licensing and enforcement operations of the department and set the fees
29 applicable to the categories as outlined in subsection 1 within the ranges specified in the
30 following schedule and subsection 4:

31 A. Retail marijuana store license, \$250 to \$2,500, with a \$10 to \$250 nonrefundable
32 application fee;

33 ~~B. Retail marijuana cultivation facility license, \$10 to \$100 per unit block, with a~~
34 ~~\$10 to \$250 nonrefundable application fee;~~

35 C. Retail marijuana products manufacturing facility license, \$100 to \$1,000, with a
36 \$10 to \$250 nonrefundable application fee;

37 D. Retail marijuana testing facility license, \$500, with a \$10 to \$250 nonrefundable
38 application fee;

39 E. Retail marijuana social club license, \$250 to \$2,500, with a \$10 to \$250
40 nonrefundable application fee; and

41 E-1. Transportation, storage, delivery, research and special event licenses, \$100 to
42 \$2,500, with a \$10 to \$250 nonrefundable application fee; and

COMMITTEE AMENDMENT

R.O.P.S

1 F. Occupational licenses and registrations for owners, managers, operators,
2 employees, contractors and other support staff employed at, working in or having
3 access to restricted access areas of the licensed premises, as determined by the state
4 licensing authority.

5 License fees collected by the state licensing authority must be deposited into the Retail
6 Marijuana Regulatory Coordination Fund under section 2455.

7 **11. License terms.** All licenses under this chapter are effective for one year from
8 the date of issuance.

9 **12. License renewal.** The following provisions govern license renewals.

10 A. Ninety days prior to the expiration date of an existing license, the state licensing
11 authority shall notify the licensee of the expiration date by first class mail at the
12 licensee's address of record with the state licensing authority. A licensee may apply
13 for the renewal of an existing license to the state licensing authority not less than 30
14 days prior to the date of expiration. Upon receipt of an application for renewal of an
15 existing license and any applicable fees, the state licensing authority shall, within 7
16 days, submit a copy of the application to the appropriate municipality to determine
17 whether the application complies with all local restrictions on renewal of licenses.

18 B. The state licensing authority may not accept an application for renewal of a
19 license after the date of expiration, except that the state licensing authority may
20 extend the expiration date of the license and accept a late application for renewal of a
21 license as long as the applicant has filed a timely renewal application with the
22 municipality. The state licensing authority or the municipality, in its discretion,
23 subject to the requirements of section 2447 and based upon reasonable grounds, may
24 waive the 30-day time requirements set forth in this subsection.

25 C. Notwithstanding the provisions of paragraph A, a licensee whose license has been
26 expired for not more than 90 days may file a late renewal application upon the
27 payment of a nonrefundable late application fee of \$250 to the state licensing
28 authority. A licensee who files a late renewal application and pays the requisite fees
29 may continue to operate until the state licensing authority takes final action to
30 approve or deny the licensee's late renewal application unless the state licensing
31 authority summarily suspends the license pursuant to subsection 16, this chapter and
32 rules adopted pursuant to this chapter.

33 D. The state licensing authority may administratively extend the expiration date of a
34 license and accept a later application for renewal of a license at the discretion of the
35 state licensing authority.

36 E. The state licensing authority may, for good cause, elect to not renew a license.

37 **13. Inactive licenses.** The state licensing authority, in its discretion, may revoke or
38 elect not to renew any license if it determines that the licensed premises have been
39 inactive, without good cause, for at least one year.

40 **14. Unlawful financial assistance.** The state licensing authority shall require a
41 complete disclosure of all persons having a direct or indirect financial interest, and the
42 extent of such interest, in each license issued under this chapter. This subsection is
43 intended to prohibit and prevent the control of a retail marijuana store, retail marijuana

COMMITTEE AMENDMENT

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cultivation facility, retail marijuana products manufacturing facility or retail marijuana social club by a person or party other than the persons licensed pursuant to the provisions of this chapter.

15. Denial of license. The state licensing authority may, for good cause, deny approval of a license application. Upon denial of a license application, the state licensing authority shall inform the applicant of the basis for denial and the right to appeal the denial in a hearing.

16. Disciplinary actions. In addition to any other sanctions prescribed by this chapter, or rules adopted pursuant to this chapter, the state licensing authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee must be afforded an opportunity to be heard, to fine a licensee or to suspend or revoke a license issued by the state licensing authority for a violation by the licensee, or by any of the agents or employees of the licensee, of the provisions of this chapter or any of the rules adopted pursuant to this chapter or of any of the terms, conditions or provisions of the license issued by the state licensing authority. The state licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary for a hearing that the state licensing authority is authorized to conduct.

The state licensing authority shall provide notice of suspension, revocation, fine or other sanction, as well as the required notice of the hearing required by this subsection, by mailing the same in writing to the licensee at the address contained in the license and, if different, at the last address furnished to the state licensing authority by the licensee. Except in the case of a summary suspension, a suspension may not be for a period longer than 6 months. If a license is suspended or revoked, a part of the fees paid must be retained by the state licensing authority.

Whenever a decision of the state licensing authority suspending a license for 14 days or less becomes final, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon the receipt of the petition, the state licensing authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made that it considers desirable and may, in its sole discretion, grant the petition if the state licensing authority is satisfied that:

- A. The public welfare would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes; and
- B. The books and records of the licensee are kept in such a manner that the loss of sales that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy.

The fine imposed may not be less than \$500 nor more than \$10,000. Payment of a fine pursuant to the provisions of this subsection must be in the form of cash or in the form of a certified check or cashier's check made payable to the state licensing authority.

Upon payment of the fine pursuant to this subsection, the state licensing authority shall enter its order permanently staying the imposition of the suspension. Fines paid to the

COMMITTEE AMENDMENT

EX-105

1 state licensing authority pursuant to this subsection must be transmitted to the Treasurer
2 of State.

3 In connection with a petition pursuant to this subsection, the authority of the state
4 licensing authority is limited to the granting of such stays as are necessary for the state
5 licensing authority to complete its investigation and make its findings and, if the state
6 licensing authority makes such findings, to the granting of an order permanently staying
7 the imposition of the entire suspension or that portion of the suspension not otherwise
8 conditionally stayed.

9 If the state licensing authority does not make the findings required in this subsection and
10 does not order the suspension permanently stayed, the suspension goes into effect on the
11 operative date finally set by the state licensing authority.

12 No later than January 15th of each year, the state licensing authority shall compile a
13 report of the preceding year's actions in which fines, suspensions or revocations were
14 imposed by the state licensing authority. The state licensing authority shall include this
15 information in its annual report to the Legislature.

16 **17. Disposition of unauthorized retail marijuana or retail marijuana products**
17 **and related materials.** The following provisions apply to the disposition of
18 unauthorized retail marijuana or retail marijuana products and related materials.

19 A. The provisions of this subsection apply in addition to any criminal, civil or
20 administrative penalties and in addition to any other penalties prescribed by this
21 chapter or any rules adopted pursuant to this chapter. Every licensee is deemed, by
22 virtue of applying for, holding or renewing that licensee's license, to have expressly
23 consented to the procedures set forth in this subsection.

24 B. If the state licensing authority issues a final agency order imposing a disciplinary
25 action against a licensee pursuant to subsection 16, then, in addition to any other
26 remedies, the state licensing authority's final agency order may specify that some or
27 all of the licensee's marijuana or marijuana products is not retail marijuana or a retail
28 marijuana product and is an illegal controlled substance. The order may further
29 specify that the licensee loses any ownership interest in any of the marijuana or
30 marijuana products even if the marijuana or marijuana products previously qualified
31 as retail marijuana or a retail marijuana product. The final agency order may direct
32 the destruction of any such marijuana and marijuana products. The authorized
33 destruction may include the incidental destruction of any containers, equipment,
34 supplies and other property associated with the marijuana or marijuana products.

35 C. A district attorney, or an assistant attorney general, shall notify the state licensing
36 authority if an investigation of a retail marijuana establishment or retail marijuana
37 social club is commenced. If the state licensing authority has received notification
38 from a district attorney, or an assistant attorney general, that an investigation is being
39 conducted, the state licensing authority may not destroy any marijuana or marijuana
40 products from the retail marijuana establishment or retail marijuana social club until
41 the destruction is approved by the district attorney or assistant attorney general.

42 D. A state or local agency may not be required to cultivate or care for any retail
43 marijuana or retail marijuana products belonging to or seized from a licensee. A state
44 or local agency is not authorized to sell marijuana, retail or otherwise.

COMMITTEE AMENDMENT

1 **18. Judicial review.** Final agency actions by the state licensing authority are subject
2 to judicial review pursuant to Title 5, section 11001, et seq.

3 ~~**19. Effective date.** This section takes effect February 1, 2018.~~

4 **20. Restriction on transfer of information.** In issuing a license to a retail
5 marijuana establishment or retail marijuana social club, the state licensing authority shall
6 include in the license a prohibition on the transfer of information by the licensee to an
7 official or agent of the Federal Government regarding any person who transacts business
8 with the licensee, except when the official or agent presents to the licensee a valid court
9 order or search warrant that entitles the official or agent to the receipt of that information.

10 **Sec. A-19. 7 MRSA §2449, sub-§4,** as enacted by IB 2015, c. 5, §1, is amended
11 to read:

12 **4. Municipality may impose licensing requirement.** A municipality may impose a
13 separate local licensing requirement, which may include, without limitation, the
14 imposition of a municipal licensing fee schedule pursuant to Title 30-A, section 3702 and
15 the imposition of a public health and safety impact fee pursuant to subsection 4-A, as a
16 part of its restrictions on time, place, manner and the number of marijuana businesses. A
17 municipality may decline to impose any local licensing requirements, but a municipality
18 shall notify the state licensing authority that it either approves or denies each application
19 forwarded to it within 14 business days.

20 **Sec. A-20. 7 MRSA §2449, sub-§§4-A and 5-A** are enacted to read:

21 **4-A. Municipality may impose public health and safety impact fee.** Pursuant to
22 the home rule authority granted under the Constitution of Maine, Article VIII, Part
23 Second and Title 30-A, section 3001, and pursuant to the requirements and limitations of
24 this subsection, and in addition to any license fees imposed pursuant to subsection 4, a
25 municipality may adopt an ordinance requiring the payment by a retail marijuana licensee
26 of an annual public health and safety impact fee that is designed to compensate the
27 municipality for the additional costs expected to be incurred by the municipality as a
28 result of the operation of a retail marijuana establishment within the municipality.

29 **A.** A municipal public health and safety impact fee imposed pursuant to this
30 subsection may include additional costs to the municipality relating to the operation
31 of retail marijuana establishments within the municipality, including, but not limited
32 to, administrative costs, law enforcement costs, health and welfare costs, water and
33 sewer costs, legal costs and compliance and safety inspection costs.

34 **B.** A municipal ordinance imposing an annual public health and safety impact fee
35 pursuant to this subsection must meet the following requirements:

- 36 (1) The ordinance must identify the use or purpose of the impact fee;
37 (2) The amount of the impact fee must be reasonably related to the applicant's
38 share of the additional municipal public health and safety costs relating to the
39 operation of a retail marijuana establishment within the municipality;
40 (3) Impact fee revenues received by a municipality must be segregated from the
41 general revenues of the municipality and impact fee revenues may be expended

8.07.15

1 by the municipality only to cover the municipality's additional costs relating to
2 the operation of a retail marijuana establishment within the municipality; and

3 (4) The ordinance must establish a reasonable schedule under which the
4 municipality is required to expend impact fee revenues to cover the
5 municipality's additional costs relating to the operation of a retail marijuana
6 establishment within the municipality.

7 C. A municipal ordinance adopted pursuant to this subsection may be enforced
8 pursuant to Title 30-A, section 4452. A municipal ordinance adopted pursuant to this
9 subsection is exempt from the application of Title 30-A, section 4314.

10 5-A. Authority of Maine Land Use Planning Commission. This chapter or the
11 rules adopted pursuant to this chapter may not be construed to limit the authority of the
12 Maine Land Use Planning Commission to regulate land use planning and development
13 activities within the unorganized and deorganized areas of the State pursuant to Title 12,
14 chapter 206-A.

15 **Sec. A-21. 7 MRSA §2449, sub-§6,** as enacted by PL 2017, c. 1, §11, is
16 repealed.

17 **Sec. A-22. 7 MRSA §2452, sub-§6,** as enacted by PL 2017, c. 1, §16, is amended
18 to read:

19 **6. Personal use.** The following provisions apply to the personal consumption of
20 marijuana and marijuana concentrate.

21 A. A person 21 years of age or older may consume marijuana or marijuana
22 concentrate only if that person is:

23 (1) In a private residence, including curtilage; or

24 (2) On private property, not generally accessible by the public, and the person is
25 explicitly permitted to consume marijuana or marijuana concentrate on the
26 property by the owner of the property.

27 B. The operator of a vehicle on a public way or a passenger in the vehicle may not
28 consume marijuana or marijuana concentrate. As used in this paragraph, "vehicle"
29 has the same meaning as in Title 29-A, section 101, subsection 91.

30 C. A person may not consume marijuana or marijuana concentrate in a private
31 residence or on private property used as a day care or baby-sitting service during the
32 hours in which the residence or property is being operated as a day care or baby-
33 sitting service.

34 ~~D. A person may not consume marijuana or marijuana concentrate in a designated~~
35 ~~smoking area as provided under the Workplace Smoking Act of 1985.~~

36 ~~A person who violates this subsection commits a civil violation for which a fine of not~~
37 ~~more than \$100 may be adjudged. This subsection may not be construed to shield any~~
38 ~~person from federal prosecution. This subsection may not be construed to allow any~~
39 ~~person to possess or consume marijuana on federal property.~~

40 **Sec. A-23. 7 MRSA §2452, sub-§§6-A and 8** are enacted to read:

ROFS

1 6-A. Transportation, cultivation and possession by person 21 years of age or
2 older. Upon encountering a person 21 years of age or older who is transporting or
3 cultivating or possesses marijuana and marijuana products, a law enforcement officer
4 shall presume that the transportation, cultivation or possession of marijuana and
5 marijuana products is legal and in compliance with this chapter.

6 8. Limitations. This chapter or rules adopted pursuant to this chapter may not be
7 construed as:

8 A. Altering existing penalties under the laws of this State relating to the operation,
9 navigation or other physical control of a motor vehicle, train, aircraft, motorboat or
10 other motorized form of transport or machinery while impaired by marijuana or
11 marijuana products or for consuming marijuana or marijuana products while
12 operating, navigating or having other physical control of a motor vehicle, train,
13 aircraft, motorboat or other motorized form of transport or machinery;

14 B. Authorizing a person to knowingly transfer or furnish, with or without
15 remuneration, to a person under 21 years of age marijuana, marijuana products or
16 marijuana paraphernalia;

17 C. Authorizing a person under 21 years of age to possess, use, purchase, obtain,
18 cultivate, process, manufacture, deliver or sell or otherwise transfer or furnish
19 marijuana, marijuana products or marijuana paraphernalia;

20 D. Except as allowed pursuant to a retail marijuana products manufacturing facility
21 license issued under this chapter, authorizing a person to manufacture marijuana
22 concentrate or marijuana products by means of any liquid or gas, excluding alcohol,
23 that has a flashpoint below 100 degrees Fahrenheit;

24 E. Preventing a person from prohibiting or otherwise regulating the consumption,
25 display, production, processing, manufacture or sale of marijuana, marijuana products
26 and marijuana paraphernalia on or in property that the person owns, occupies or
27 manages, except that a lease agreement may not prohibit a tenant from consuming
28 marijuana by means other than smoking on or in property in which the tenant resides,
29 unless failing to do so would cause the landlord to violate a federal law or regulation;

30 F. Preventing a state, county or local agency or department from prohibiting or
31 otherwise regulating the possession or consumption of marijuana, marijuana products
32 and marijuana paraphernalia within a building owned, leased or occupied by the
33 State, a county or a locality;

34 G. Authorizing a person to possess or consume marijuana, marijuana products or
35 marijuana paraphernalia on the grounds of or within a public or private school where
36 children attend classes in preschool programs, kindergarten programs or grades 1 to
37 12; on a school bus; in a youth center; or on the grounds of or within a correctional
38 facility, county jail or detoxification facility;

39 H. Altering existing civil, criminal or other penalties for conduct involving the
40 performance by a person of any task while impaired by marijuana or marijuana
41 products that constitutes negligence or professional malpractice; or

42 I. Exempting marijuana and marijuana products from the application of the laws and
43 rules of this State governing the adulteration and misbranding of food, drugs and

ROFS

1 other items intended for human consumption, except that marijuana that is included
2 as an ingredient in a marijuana product that is manufactured pursuant to a retail
3 marijuana products manufacturing facility license issued under this chapter is not
4 considered an adulterant.

5 **Sec. A-24. 7 MRSA §2453, sub-§4,** as enacted by PL 2017, c. 1, §17, is
6 repealed.

7 **Sec. A-25. 7 MRSA §2454,** as amended by PL 2017, c. 1, §18, is further amended
8 to read:

9 **§2454. Civil liberties**

10 **1. Relation to the Maine Medical Use of Marijuana Act.** This chapter may not be
11 construed to limit any privileges or rights of a qualifying patient, primary caregiver,
12 registered or otherwise, or registered dispensary under the Maine Medical Use of
13 Marijuana Act.

14 **2. Employment policies.** This chapter may not be construed to require an employer
15 to permit or accommodate the use, consumption, possession, trade, display,
16 transportation, sale or growing of cannabis in the workplace. This chapter does not affect
17 the ability of employers to enact and enforce workplace policies restricting the use of
18 marijuana by employees or to discipline employees who are under the influence of
19 marijuana in the workplace.

20 **3. School, employer or landlord may not discriminate.** A school, employer or
21 landlord may not refuse to enroll or employ or lease to or otherwise penalize a person 21
22 years of age or older solely for that person's consuming marijuana outside of the school's,
23 employer's or landlord's property.

24 **4. Person may not be denied parental rights and responsibilities or contact with**
25 **a minor child.** A person may not be denied parental rights and responsibilities with
26 respect to or contact with a minor child as a result of acting in accordance with this
27 chapter, unless there is clear, convincing and articulable evidence that the person's
28 conduct creates an unreasonable danger to the safety of the minor child or is contrary to
29 the best interest of the minor child as set out in Title 19-A, section 1653, subsection 3.
30 Neither the presence of cannabinoid components or metabolites in the person's body
31 fluids nor the engaging in of conduct permitted under this chapter by a person responsible
32 for the well-being of a minor child may form the sole or primary basis for substantiation
33 of child abuse or neglect, a child welfare service plan, removal of a minor child from the
34 custody of the person or termination or denial of parental responsibilities of any type.

35 **5. Effective date.** ~~This section takes effect February 1, 2018.~~

36 **6. Protection for owners of real property.** An owner of real property may not be
37 arrested or charged with a violation of law, denied a benefit by the municipality in which
38 the real property is located or by the State or be subjected to any seizure of the owner's
39 personal property as a result of allowing another person to use that real property for any
40 purpose authorized under this chapter or for employing a person to use that real property
41 on the owner's behalf for any purpose authorized under this chapter.

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7. Profiling prohibited. In enforcing the provisions of this chapter, a law enforcement officer may not engage in the practice of profiling or undertake any act that results from profiling.

For the purposes of this subsection, "profiling" means the targeting by a law enforcement officer of an individual on suspicion that the individual has committed a crime based solely on the race, ethnicity, religion, socioeconomic status or national origin of the individual and in reliance on a group of characteristics regarding the race, ethnicity, religion, socioeconomic status or national origin of the individual that the law enforcement officer believes to be generally associated with the commission of crimes.

Sec. A-26. 7 MRSA §2455, as enacted by PL 2017, c. 278, §10, is amended to read:

§2455. Retail Marijuana Regulatory Coordination Fund

The Retail Marijuana Regulatory Coordination Fund, referred to in this section as "the fund," is established as a dedicated, nonlapsing Other Special Revenue Funds account in the department. The fund is administered and used by the commissioner for the purposes of described in this section and to facilitate adopting rules as required by this chapter by the department and by any other department of State Government that is authorized to adopt rules under this chapter. The commissioner may expend funds to enter into contracts with consultants and employ staff, as determined necessary by the commissioner, conduct meetings with stakeholders and conduct other activities related to the operation of this chapter. The fund also must be used to establish or support efforts related to the programs and organizations as described in subsections 1 and 2.

1. Substance abuse prevention and treatment. The fund must be used to support public and behavioral health programs and services, including, but not limited to, evidence-based substance use prevention and treatment programs, early intervention services and grants for schools or community-based organizations that provide programs for youth substance use education and prevention as described under Title 5, chapter 521.

2. Municipal police training and negative social impact mitigation. The fund must be used to provide municipal police training and programming in restorative justice, jail diversion, marijuana industry-specific technical assistance and mentoring programs for economically disadvantaged persons in communities disproportionately affected by high rates of arrest and incarceration for marijuana-related offenses.

Sec. A-27. 7 MRSA §§2456 to 2460 are enacted to read:

§2456. Energy and environmental standards; working group

1. Working group established; recommendations. The commissioner shall establish a retail marijuana energy and environmental standards working group that includes, but is not limited to, the following members: the Commissioner of Environmental Protection or the commissioner's designee; the Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee; the director of the Governor's Energy Office or the director's designee; and the chair of the Public Utilities Commission or the chair's designee. The working group shall meet to discuss and provide to the department recommendations on the following matters:

2025

- 1 A. Strategies for reducing energy and water usage in the retail marijuana and medical
- 2 marijuana industries in the State;
- 3 B. Strategies for mitigating other environmental impacts of the retail marijuana and
- 4 medical marijuana industries in the State;
- 5 C. Requirements for annual energy audits, energy efficiency measures, energy
- 6 conservation measures and energy conservation projects applicable to participants in
- 7 the retail marijuana and medical marijuana industries in the State; and
- 8 D. The development of energy and environmental standards as described in
- 9 subsection 2 and additional best practices to ensure compliance with those standards.

10 **2. Standards.** The department, after receiving the recommendations submitted by
 11 the working group established under subsection 1, shall establish energy and
 12 environmental standards that require, at a minimum, that any retail marijuana licensee
 13 that has been issued a retail marijuana cultivation facility license or a retail marijuana
 14 products manufacturing facility license by the department demonstrate compliance with
 15 such standards as a condition of licensure and for license renewal.

16 **3. Rules.** The department shall adopt rules to implement this section. Rules adopted
 17 pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375,
 18 subchapter 2-A.

19 **§2457. Marijuana research agenda**

20 The department, after consultation with appropriate state agencies and the Marijuana
 21 Advisory Commission under section 2460, shall develop a research agenda designed to
 22 facilitate understanding of the social and economic trends relating to marijuana in the
 23 State, to inform future decisions of the State aimed at closing the unregulated marijuana
 24 marketplace and to inform the department on the public health impacts of marijuana in
 25 the State.

26 **1. Research agenda.** The research agenda to be developed under this section must
 27 include, but is not limited to:

28 A. Information on patterns of marijuana use, methods of marijuana consumption,
 29 sources of purchase of marijuana and general perceptions of marijuana among
 30 minors, college and university students and adults;

31 B. Information on impaired driving incidents, hospitalizations and use of other health
 32 care services relating to the use of marijuana, including, but not limited to, a report on
 33 the science of identifying a quantifiable level of marijuana-induced impairment for
 34 motor vehicle operation and a report on the financial impacts on the state health care
 35 system of hospitalizations related to the use of marijuana;

36 C. Economic and fiscal impacts for state and local governments including the impact
 37 of the legalization of marijuana on the production and distribution of marijuana in the
 38 unregulated marijuana marketplace and the costs and benefits to state and local
 39 revenues;

40 D. Information on ownership and employment trends of licensed retail marijuana
 41 establishments and retail marijuana social clubs, examining participation by racial,

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1 ethnic and socioeconomic subgroups, including, but not limited to, identification of
2 barriers to participation in the marijuana industry;

3 E. Market analyses examining the expansion or contraction of the unregulated
4 marijuana marketplace and the expansion or contraction of the regulated marijuana
5 marketplace, including, but not limited to, estimates and comparisons of pricing and
6 product availability in each marketplace;

7 F. A compilation of data on the number of incidents of discipline in schools,
8 including suspensions or expulsions, resulting from marijuana use or possession of
9 marijuana or marijuana products; and

10 G. A compilation of data on the number of civil penalties, arrests, prosecutions,
11 incarcerations and sanctions imposed for violations of the provisions of Title 17-A
12 relating to the possession, distribution and trafficking of marijuana and marijuana
13 products, including, but not limited to, information on the age, race, gender, country
14 of origin and state geographic region of and average sanctions imposed on the
15 persons charged.

16 2. Incorporation of available data. The department shall incorporate into the
17 research agenda developed under this section any available relevant data, including, but
18 not limited to, any baseline studies that may have been conducted, and in developing the
19 research agenda shall coordinate and partner with the Department of Health and Human
20 Services, the Department of Education, the Department of Public Safety, the Department
21 of Labor, the University of Maine System, the Maine Community College System and
22 other appropriate public or private entities.

23 3. Annual report. The department shall annually report to the joint standing
24 committee of the Legislature having jurisdiction over retail marijuana matters the results
25 of its research agenda and, when appropriate, make recommendations for further research
26 or policy changes. The department shall post the annual report required under this
27 subsection on its publicly accessible website.

28 **§2458. Maine craft marijuana report**

29 As provided in this section, the department, after consultation with the Department of
30 Agriculture, Conservation and Forestry, shall report to the joint standing committees of
31 the Legislature having jurisdiction over retail marijuana matters; agriculture, conservation
32 and forestry matters; and economic and community development matters regarding the
33 participation of farmers and businesses of all sizes as retail marijuana licensees under this
34 chapter.

35 1. First report. No later than 12 months after the effective date of this section, the
36 department shall submit a report providing recommendations, including any proposed
37 legislation, designed to ensure access to retail marijuana licenses by farmers in the State
38 and to allow for the growth, cultivation, production and harvest of marijuana on farm or
39 agricultural lands in the State.

40 2. Second report. No later than December 31, 2020, the department shall submit a
41 report providing information on the progress being made on the recommendations
42 contained in the report submitted under subsection 1 and any recommendations, including
43 any proposed legislation, necessary to further that progress and to otherwise promote and

ROFS

1 encourage the full participation of farmers and businesses of all sizes in the State as retail
2 marijuana licensees.

3 **3. Repeal.** This section is repealed January 1, 2021.

4 **§2459. Special Commission on Impaired Driving**

5 The Special Commission on Impaired Driving, established by Title 5, section
6 12004-I, subsection 52-D and referred to in this section as "the special commission," is
7 created for the purpose of conducting a continuing study of the laws relating to impaired
8 driving and reporting to the Legislature its findings and recommendations on an annual
9 basis.

10 **1. Membership.** The special commission consists of the following 10 members:

11 A. Two members of the Senate, including members from each of the 2 parties
12 holding the largest number of seats in the Legislature, appointed by the President of
13 the Senate;

14 B. Two members of the House of Representatives, including members from each of
15 the 2 parties holding the largest number of seats in the Legislature, appointed by the
16 Speaker of the House of Representatives;

17 C. The Commissioner of Administrative and Financial Services or the
18 commissioner's designee;

19 D. The Commissioner of Public Safety or the commissioner's designee;

20 E. The Secretary of State or the secretary's designee; and

21 F. The following 3 members, appointed by the Governor:

22 (1) A representative of a statewide association representing prosecutors;

23 (2) A representative of a statewide association of criminal defense attorneys; and

24 (3) A member of the public.

25 **2. Duties; chairs.** The special commission shall compile and assess existing primary
26 research on impaired driving and the incidence and significance of the use of marijuana
27 by drivers in the State. The special commission shall evaluate marijuana use alone or in
28 combination with other substances that may cause impairment and whether marijuana
29 legalization is associated with an increased risk of motor vehicle crashes and fatalities.
30 The special commission shall compile and review data and reports on impaired driving
31 related to marijuana use and scientific reports on THC levels and impairment. The first-
32 named Senate member is the Senate chair and the first-named House member is the
33 House chair of the special commission.

34 **3. Report.** Beginning January 15, 2020, and annually thereafter, the special
35 commission shall submit a report regarding its findings and recommendations, including
36 any proposed legislation, to the joint standing committees of the Legislature having
37 jurisdiction over medical marijuana matters, retail marijuana matters, criminal justice and
38 public safety matters, and transportation matters, which are authorized to report out
39 legislation regarding the report.

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4. Staffing; reimbursement. The Legislative Council shall provide staff support for the operation of the special commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session. In addition, the special commission may contract for administrative, professional and clerical services if funding permits. Members of the special commission serve on a voluntary basis, are entitled to reimbursement for expenses as set forth in Title 5, section 12004-I, subsection 52-D and are not entitled to per diem reimbursement.

§2460. Marijuana Advisory Commission

The Marijuana Advisory Commission, established by Title 5, section 12004-I, subsection 52-C and referred to in this section as "the commission," is created for the purpose of conducting a continuing study of the laws relating to marijuana and reporting to the Legislature its findings and recommendations on an annual basis.

1. Membership. The commission consists of the following 17 voting members and additional nonvoting members as described in this subsection:

A. Two members of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature, appointed by the President of the Senate;

B. Two members of the House of Representatives, including members from each of the 2 parties holding the largest number of seats in the Legislature, appointed by the Speaker of the House of Representatives;

C. The Commissioner of Administrative and Financial Services or the commissioner's designee, who is a nonvoting member;

D. The Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee, who is a nonvoting member;

E. The Commissioner of Health and Human Services or the commissioner's designee, who is a nonvoting member;

F. The Commissioner of Labor or the commissioner's designee, who is a nonvoting member;

G. The Commissioner of Public Safety or the commissioner's designee, who is a nonvoting member;

H. The Attorney General or the Attorney General's designee, who is a nonvoting member;

I. The following 3 members, appointed by the Governor:

(1) A representative of a statewide municipal association;

(2) A representative of a statewide association representing the medical marijuana industry; and

(3) A member representing the retail marijuana industry;

J. The following 3 members, appointed by the Attorney General:

(1) A representative of a statewide association representing prosecutors;

ROFS

1 (2) A representative of a statewide association representing defense attorneys;
2 and

3 (3) A representative of a statewide association representing law enforcement;

4 K. The following 4 members, appointed by the President of the Senate:

5 (1) The Executive Director of the Maine Human Rights Commission, or a
6 designee;

7 (2) An expert in marijuana cultivation;

8 (3) A member representing marijuana business incubators; and

9 (4) A member representing registered caregivers; and

10 L. The following 3 members, appointed by the Speaker of the House of
11 Representatives:

12 (1) A member of a federally recognized Indian tribe in this State;

13 (2) A representative of the Maine chapter of a national civil liberties
14 organization; and

15 (3) A representative of a national association ensuring equality of rights of all
16 persons.

17 2. Chairs. The first-named Senate member is the Senate chair and the first-named
18 House member is the House chair of the commission.

19 3. Terms. Members of the commission who are Legislators serve during the term of
20 office for which they were elected. Other members of the commission serve for terms of
21 2 years and may be reappointed.

22 4. Vacancies. In the event of a vacancy on the commission, the member's unexpired
23 term must be filled through an appointment by the appointing authority for the vacant
24 seat.

25 5. Quorum. A quorum of the commission consists of 8 members.

26 6. Subcommittees. The chairs shall appoint subcommittees of the commission to
27 expedite the work of the commission. Subcommittees must be formed on issues related
28 to public health, public safety, operation of marijuana industries and agricultural
29 operations and market participation by veterans, minority populations and women.

30 7. Review of laws and rules. The commission shall review laws and rules
31 pertaining to the retail marijuana and medical marijuana industries in this State and any
32 other provision of law or rule pertaining to marijuana, including, but not limited to, laws
33 and rules regarding public health, public safety, juvenile and adult criminal and civil
34 offenses, workplace drug testing, workplace safety, motor vehicle safety, landlords and
35 tenants, the personal use of marijuana, the practice by law enforcement officers of
36 profiling as defined and prohibited in section 2454, subsection 7 and taxes and fees paid
37 to the State by applicants and registered primary caregivers and registered dispensaries

ROFS

1 under the Maine Medical Use of Marijuana Act and applicants and licensees under this
2 Act.

3 **8. Solicitation of public comment regarding law enforcement contacts with**
4 **citizens.** The commission, on an annual basis, shall solicit public comment regarding
5 contacts between law enforcement officers and citizens following the initiation of a retail
6 marijuana market in the State that involve the personal use of marijuana and marijuana
7 products and home cultivation of marijuana and the prevalence or absence of the practice
8 of profiling as defined and prohibited in section 2454, subsection 7. The public
9 comments solicited under this subsection and any findings or recommendations by the
10 commission relating to those solicited comments must be included in the annual report
11 under subsection 11.

12 **9. Submission of recommendations to Legislature.** The commission shall submit
13 to the Legislature such recommended changes to the laws as it considers appropriate to:

14 A. Preserve the public health and safety and the well-being of the citizens of the
15 State;

16 B. Preserve the intent of the citizens as expressed in passage of the Marijuana
17 Legalization Act at the referendum election held in November 2016; and

18 C. Standardize, coordinate or integrate the retail marijuana and medical marijuana
19 laws, rules and programs in the State, including, but not limited to, recommended
20 changes regarding the standardization, coordination or integration of the laws and
21 rules relating to the testing, labeling and packaging of retail marijuana and retail
22 marijuana products and marijuana and marijuana products for medical use.

23 **10. Public hearings.** The commission may hold public hearings at such times and at
24 such places as the commission considers appropriate in order to take testimony
25 concerning the use, possession and distribution of marijuana, police contacts with citizens
26 as described in subsection 8, the alignment of this Act with other provisions of law and
27 any other matter relating to the duties of the commission.

28 **11. Report to Legislature.** Beginning January 15, 2020, and annually thereafter, the
29 commission shall submit a report containing its findings and recommendations, together
30 with any suggested legislation, to the joint standing committees of the Legislature having
31 jurisdiction over health and human services matters and retail marijuana matters, which
32 may report out legislation based on the report.

33 **12. Additional consideration regarding review of laws and rules.** In reviewing
34 laws and rules under subsection 7, the commission shall review and consider the
35 materials reviewed and developed by any committee of the 128th Legislature having
36 jurisdiction over retail marijuana matters. This subsection is repealed February 1, 2020.

37 **13. Staffing; reimbursement.** The Legislative Council shall provide staff support
38 for the operation of the commission, except that Legislative Council staff support is not
39 authorized when the Legislature is in regular or special session. In addition, the
40 commission may contract for administrative, professional and clerical services if funding
41 permits. Members of the commission serve on a voluntary basis, are entitled to
42 reimbursement for expenses as set forth in Title 5, section 12004-I, subsection 52-C and
43 are not entitled to per diem reimbursement.

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COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719

1 **Sec. A-28. 36 MRSA §1817, sub-§§1 and 2**, as enacted by IB 2015, c. 5, §3, are
2 amended to read:

3 **1. Definitions.** As used in this section and in section 1818, unless the context
4 otherwise indicates, the following terms have the following meanings.

5 A. "Retail marijuana" has the same meaning as in Title 7, section 2442, subsection
6 34.

7 B. "Retail marijuana product" has the same meaning as in Title 7, section 2442,
8 subsection 37.

9 C. "Retail marijuana social club" has the same meaning as in Title 7, section 2442,
10 subsection 39.

11 D. "Retail marijuana store" has the same meaning as in Title 7, section 2442,
12 subsection 40.

13 E. "State licensing authority" has the same meaning as in Title 7, section 2442,
14 subsection 44.

15 F. "Participating municipality" means a municipality that has imposed a local option
16 sales tax on the sale of retail marijuana and retail marijuana products pursuant to
17 section 1818.

18 **2. Sales tax on retail marijuana and retail marijuana products.** The sales tax on
19 retail marijuana and retail marijuana products is ~~10%~~ 17.5% and, except as provided in
20 section 1818, is the only tax charged on the sale of retail marijuana and retail marijuana
21 products at the point of final sale at a retail marijuana store or retail marijuana social club.

22 **Sec. A-29. 36 MRSA §1817, sub-§8**, as enacted by PL 2017, c. 1, §21, is
23 repealed.

24 **Sec. A-30. 36 MRSA §1818** is enacted to read:

25 **§1818. Municipal local option sales tax on retail marijuana and retail marijuana**
26 **products**

27 **1. Authorization to impose local option sales tax.** A municipality by referendum
28 conducted pursuant to subsection 7 may impose a local option sales tax of no more than
29 3.5% on retail marijuana and retail marijuana products sold by retail marijuana stores and
30 retail marijuana social clubs within the municipality.

31 **2. Notification to State Tax Assessor.** A municipality that imposes a local option
32 sales tax on retail marijuana and retail marijuana products under this section shall notify
33 the State Tax Assessor at least 90 days before the local option sales tax is effective.

34 **3. Administration.** Retail marijuana stores and retail marijuana social clubs in a
35 participating municipality shall transfer the revenue from a local option sales tax imposed
36 under this section at the time and in the manner provided in section 1951-A for the
37 transfer of state sales tax revenue. The tax is subject to the same enforcement provisions,
38 interest, penalties and administrative actions as other taxes assessed under this Part.

39 **4. Distribution of revenue.** Each month, the State Tax Assessor shall identify the
40 amount of revenue attributable to each participating municipality under this section and

COMMITTEE AMENDMENT

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1 certify the net amount for that municipality to the Treasurer of State, who shall each
2 month distribute that net amount to the municipality.

3 **5. Use of revenue by participating municipality.** The revenue raised by the
4 imposition of a local option sales tax on retail marijuana and retail marijuana products
5 under this section must be held by the participating municipality in a special revenue
6 account established for that purpose. Revenue from that account may be expended only
7 if specifically authorized by an appropriation of the local legislative body.

8 **6. Effect on revenue sharing and other state aid programs.** Revenue received
9 pursuant to subsection 4 may not be used to reduce or eliminate any funding otherwise
10 due the participating municipality under any provision of law providing aid to the
11 participating municipality, including, but not limited to, aid for schools, roads, public
12 assistance or jails.

13 **7. Referendum.** The question of whether to impose a local option sales tax on retail
14 marijuana and retail marijuana products must be submitted to the legal voters of a
15 municipality that seeks to impose the local option sales tax.

16 The petition process and voting must be held and conducted in accordance with Title
17 30-A, sections 2528, 2529 and 2532 even if the municipality has not accepted the
18 provisions of Title 30-A, section 2528. The voting at elections must be held and
19 conducted in accordance with Title 21-A. The municipal clerk shall prepare the required
20 ballots, which must contain substantially the following question:

21 "Do you favor a local option sales tax of up to 3.5% to be imposed by
22 [insert name of municipality] on retail marijuana and retail marijuana
23 products sold by retail marijuana stores and retail marijuana social clubs
24 within [insert name of municipality]?"

25 The voters shall indicate by a cross or check mark placed against the word "Yes" or "No"
26 their opinion of the same. The municipal clerk shall make a return of the results, certify
27 the results and send them to the Secretary of State. The Secretary of State shall forward
28 the results to the assessor.

29 A local option sales tax imposed by a participating municipality on retail marijuana and
30 retail marijuana products under this section may be discontinued by referendum
31 conducted in the same manner as the referendum adopting the local option sales tax under
32 this subsection.

33 **8. Effective date of tax; acceptance by voters.** A local option sales tax on retail
34 marijuana and retail marijuana products authorized by this section takes effect 120 days
35 after the municipal referendum vote under subsection 7 if it is accepted by a majority of
36 the legal voters voting at the election and the total number of votes cast equals or exceeds
37 20% of the total number of votes cast by that municipality in the most recent
38 gubernatorial election.

39 **PART B**

40 **Sec. B-1. 15 MRSA §5821, first ¶,** as amended by IB 1999, c. 1, §2, is further
41 amended to read:

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1 Except as provided in ~~section~~ sections 5821-A and 5821-B, the following are subject
2 to forfeiture to the State and no property right ~~may exist~~ exists in them:

3 **Sec. B-2. 15 MRSA §5821-B** is enacted to read:

4 **§5821-B. Property not subject to forfeiture based on adult use of marijuana**

5 Property is not subject to forfeiture under this chapter if the activity that subjects the
6 person's property to forfeiture is the cultivation, testing, products manufacturing or sale of
7 retail marijuana pursuant to a license issued under Title 7, chapter 417 or is related to the
8 personal possession, use or home cultivation of marijuana pursuant to Title 7, chapter 417
9 and the person meets all applicable requirements imposed by and is in compliance with
10 Title 7, chapter 417.

11 **Sec. B-3. 17-A MRSA §1103, sub-§1-A, ~~¶¶E and F~~**, as enacted by PL 2001, c.
12 383, §115 and affected by §156, are amended to read:

13 E. Marijuana in a quantity of more than one pound and the person to whom the
14 marijuana is trafficked is in fact under 21 years of age. Violation of this paragraph is
15 a Class C crime;

16 ~~F. Marijuana and the person grows or cultivates 100 or more plants. Violation of~~
17 ~~this paragraph is a Class C crime;~~

18 **Sec. B-4. 17-A MRSA §1103, sub-§1-B**, as enacted by PL 2001, c. 383, §115
19 and affected by §156, is amended to read:

20 **1-B.** A person is not guilty of unlawful trafficking in a scheduled drug if the
21 conduct that constitutes the trafficking is either:

22 A. Expressly authorized by Title 7, chapter 417, Title 22 or Title 32; or

23 B. Expressly made a civil violation by Title 7, chapter 417 or Title 22.

24 **Sec. B-5. 17-A MRSA §1105-D, sub-§1, ~~¶B-1~~**, as enacted by PL 2001, c. 667,
25 Pt. D, §30 and affected by §36, is amended to read:

26 B-1. At the time of the offense, the person possesses a firearm in the furtherance of
27 the offense, uses a firearm, carries a firearm or is armed with a firearm, and the
28 person grows or cultivates:

29 (1) Five hundred or more marijuana plants. Violation of this subparagraph is a
30 Class A crime;

31 ~~(2) One hundred or more but fewer than 500 marijuana plants. Violation of this~~
32 ~~subparagraph is a Class B crime;~~

33 ~~(3) More than 5 but fewer than 100 marijuana plants. Violation of this~~
34 ~~subparagraph is a Class C crime; or~~

35 ~~(4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D~~
36 ~~crime;~~

37 **Sec. B-6. 17-A MRSA §1106, sub-§1-B**, as enacted by PL 2001, c. 383, §121
38 and affected by §156, is amended to read:

ROFS

COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719

1 1-B. A person is not guilty of unlawful furnishing of a scheduled drug if the
2 conduct that constitutes the furnishing is expressly:

3 A. Authorized by Title 7, chapter 417, Title 22 or Title 32; or

4 B. Made a civil violation by Title 7, chapter 417 or Title 22.

5 **Sec. B-7. 17-A MRSA §1106, sub-§3, ¶A**, as amended by PL 2009, c. 67, §1, is
6 repealed.

7 **Sec. B-8. 17-A MRSA §1107-A, sub-§1, ¶F**, as amended by PL 2009, c. 67, §2,
8 is further amended to read:

9 F. A schedule Z drug. Violation of this paragraph is a Class E crime unless the drug
10 is marijuana, in which case a violation of this paragraph is:

11 ~~(1) For possession of over 2 1/2 ounces to 8 ounces of marijuana, a Class E~~
12 ~~crime;~~

13 ~~(2) For possession of over 8 ounces to 16 ounces of marijuana, a Class D crime;~~

14 ~~(3) For possession of over one pound to 20 pounds of marijuana, a Class C~~
15 ~~crime; and~~

16 (4) For possession of over 20 pounds of marijuana, a Class B crime.

17 **Sec. B-9. 17-A MRSA §1107-A, sub-§2**, as enacted by PL 2001, c. 383, §127
18 and affected by §156, is amended to read:

19 2. A person is not guilty of unlawful possession of a scheduled drug if the conduct
20 that constitutes the possession is expressly:

21 A. Authorized by Title 7, chapter 417, Title 22 or Title 32; or

22 B. Made a civil violation by Title 7, chapter 417 or Title 22.

23 **Sec. B-10. 17-A MRSA §1107-A, sub-§4**, as amended by PL 2015, c. 496, §9, is
24 further amended to read:

25 4. It is an affirmative defense to prosecution under subsection 1, paragraph B,
26 subparagraphs (4) to (6); subsection 1, paragraph B-1, subparagraphs (4) to (6); and
27 subsection 1, paragraphs C to ~~F~~ E that the person possessed a valid prescription for the
28 scheduled drug or controlled substance that is the basis for the charge and that, at all
29 times, the person intended the drug to be used only for legitimate medical use in
30 conformity with the instructions provided by the prescriber and dispenser.

31 **Sec. B-11. 17-A MRSA §1111-A, sub-§1**, as corrected by RR 2015, c. 1, §11, is
32 amended to read:

33 1. As used in this section the term "drug paraphernalia" means all equipment,
34 products and materials of any kind that are used or intended for use in planting,
35 propagating, cultivating, growing, harvesting, manufacturing, compounding, converting,
36 producing, processing, preparing, testing, analyzing, packaging, repackaging, storing,
37 containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the
38 human body a scheduled drug in violation of this chapter or Title 22, section 2383, except

R.O.P.S

1 that this section does not apply to a person who is authorized to possess marijuana for
2 medical use pursuant to Title 22, chapter 558-C, to the extent the drug paraphernalia is
3 used for that person's medical use of marijuana; to a person who is authorized to possess
4 marijuana pursuant to Title 7, chapter 417, to the extent the drug paraphernalia is used for
5 that person's use of marijuana; or to a retail marijuana store or retail marijuana social club
6 licensed pursuant to Title 7, chapter 417, to the extent that the drug paraphernalia relates
7 to the sale or offering for sale of marijuana by the retail marijuana store or retail
8 marijuana social club. It includes, but is not limited to:

- 9 A. Kits used or intended for use in planting, propagating, cultivating, growing or
10 harvesting of any species of plant which is a scheduled drug or from which a
11 scheduled drug can be derived;
- 12 B. Kits used or intended for use in manufacturing, compounding, converting,
13 producing, processing or preparing scheduled drugs;
- 14 C. Isomerization devices used or intended for use in increasing the potency of any
15 species of plant that is a scheduled drug;
- 16 D. Testing equipment used or intended for use in identifying or in analyzing the
17 strength, effectiveness or purity of scheduled drugs;
- 18 E. Scales and balances used or intended for use in weighing or measuring scheduled
19 drugs;
- 20 F. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite,
21 dextrose and lactose, used or intended for use in cutting scheduled drugs;
- 22 G. Separation gins and sifters, used or intended for use in removing twigs and seeds
23 from, or in otherwise cleaning or refining, marijuana;
- 24 H. Blenders, bowls, containers, spoons and mixing devices used or intended for use
25 in compounding scheduled drugs;
- 26 I. Capsules, balloons, envelopes and other containers used or intended for use in
27 packaging small quantities of scheduled drugs;
- 28 J. Containers and other objects used or intended for use in storing or concealing
29 scheduled drugs; and
- 30 K. Objects used or intended for use in ingesting, inhaling or otherwise introducing
31 marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - 32 (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without
33 screens, permanent screens, hashish heads or punctured metal bowls;
 - 34 (2) Water pipes;
 - 35 (3) Carburetion tubes and devices;
 - 36 (4) Smoking and carburetion masks;
 - 37 (5) Roach clips, meaning objects used to hold burning material, such as a
38 marijuana cigarette that has become too small or too short to be held in the hand;
 - 39 (6) Miniature cocaine spoons and cocaine vials;

COMMITTEE AMENDMENT

H. O. P. S.

COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719

- 1 (7) Chamber pipes;
- 2 (8) Carburetor pipes;
- 3 (9) Electric pipes;
- 4 (10) Air-driven pipes;
- 5 (11) Chillums;
- 6 (12) Bongs; or
- 7 (13) Ice pipes or chillers.

8 **Sec. B-12. 17-A MRSA §1111-A, sub-§§4-A and 4-B**, as enacted by PL 2011,
9 c. 464, §20, are amended to read:

10 **4-A.** Except as provided in Title 7, chapter 417 or Title 22, chapter 558-C, a person
11 is guilty of use of drug paraphernalia if:

12 A. The person trafficks in or furnishes drug paraphernalia knowing, or under
13 circumstances when that person reasonably should know, that it will be used to plant,
14 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
15 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
16 inhale or otherwise introduce into the human body a scheduled drug in violation of
17 this chapter or Title 22, section 2383, and the person to whom that person is
18 trafficking or furnishing drug paraphernalia is:

19 (1) At least 16 years of age. Violation of this subparagraph is a Class E crime;
20 or

21 (2) Less than 16 years of age. Violation of this subparagraph is a Class D crime;
22 or

23 B. The person places in a newspaper, magazine, handbill or other publication an
24 advertisement knowing, or under circumstances when that person reasonably should
25 know, that the purpose of the advertisement, in whole or in part, is to promote the
26 sale of objects intended for use as drug paraphernalia. Violation of this paragraph is
27 a Class E crime.

28 **4-B.** Except as provided in Title 7, chapter 417 or Title 22, chapter 558-C, a person
29 commits a civil violation if:

30 A. The person in fact uses drug paraphernalia to plant, propagate, cultivate, grow,
31 harvest, manufacture, compound, convert, produce, process, prepare, test, analyze,
32 pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into
33 the human body a scheduled drug in violation of this chapter or Title 22, section
34 2383. Violation of this paragraph is a civil violation for which a fine of \$300 must be
35 adjudged, none of which may be suspended; or

36 B. The person possesses with intent to use drug paraphernalia to plant, propagate,
37 cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare,
38 test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise
39 introduce into the human body a scheduled drug in violation of this chapter or Title

COMMITTEE AMENDMENT

ROPS

1 22, section 2383. Violation of this paragraph is a civil violation for which a fine of
2 \$300 must be adjudged, none of which may be suspended.

3 **Sec. B-13. 17-A MRSA §1114**, as enacted by PL 1975, c. 499, §1, is amended to
4 read:

5 **§1114. Schedule Z drugs; contraband subject to seizure**

6 All scheduled Z drugs, the unauthorized possession of which constitutes a civil
7 violation under Title 7, chapter 417 or Title 22, are hereby declared contraband, and may
8 be seized and confiscated by the State.

9 **Sec. B-14. 17-A MRSA §1115**, as enacted by PL 1975, c. 499, §1 and amended
10 by c. 740, §106-A, is further amended to read:

11 **§1115. Notice of conviction**

12 On the conviction of any person of the violation of any provision of this chapter, or
13 on ~~his~~ the person's being found liable for a civil violation under Title 7, chapter 417 or
14 Title 22, a copy of the judgment or sentence and of the opinion of the court or judge, if
15 any opinion be filed, ~~shall~~ must be sent by the clerk of court or by the judge to the board
16 or officer, if any, by whom the person has been licensed or registered to practice ~~his~~ the
17 person's profession or to carry on ~~his~~ the person's business if the court finds that such
18 conviction or liability renders such person unfit to engage in such profession or business.
19 The court may, in its discretion, suspend or revoke the license or registration of the
20 person to practice ~~his~~ the person's profession or to carry on ~~his~~ the person's business if the
21 court finds that such conviction or liability renders such person unfit to engage in such
22 profession or business. On the application of any person whose license or registration has
23 been suspended or revoked and upon proper showing and for good cause, said board or
24 officer may reinstate such license or registration.

25 **Sec. B-15. 17-A MRSA §1117, sub-§4**, as enacted by PL 2009, c. 631, §3 and
26 affected by §51, is amended to read:

27 **4.** A person is not guilty of cultivating marijuana if the conduct is expressly
28 authorized by Title 7, chapter 417 or Title 22, chapter 558-C.

29 **PART C**

30 **Sec. C-1. Maine Revised Statutes amended; revision clause.** Wherever in
31 the Maine Revised Statutes the word "marijuana" appears, it is amended to read
32 "cannabis" and the Revisor of Statutes shall implement this revision when updating,
33 publishing or republishing the statutes.

34 **Sec. C-2. Rulemaking.** The state licensing authority pursuant to the Marijuana
35 Legalization Act shall provisionally adopt all rules required by the Marijuana
36 Legalization Act no later than December 1, 2018 and when drafting rules shall review
37 and consider proposals considered for amendments to the Marijuana Legalization Act by
38 the Joint Select Committee on Marijuana Legalization Implementation established
39 pursuant to Joint Order 2017, House Paper 96.

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Sec. C-3. Department of Public Safety; sealing of marijuana conviction records. Notwithstanding any provision of law to the contrary and no later than January 15, 2020, the Department of Public Safety, Bureau of State Police, State Bureau of Identification shall ensure that all criminal conviction records within the possession of the department that relate to an eligible marijuana conviction are made confidential and that the dissemination of such records by the department is prohibited.

1. For the purposes of this section, "eligible marijuana conviction" means a conviction for a current or former crime that consisted of conduct that is authorized under the Maine Revised Statutes, Title 7, section 2452.

2. No later than January 15, 2019, the Department of Public Safety shall submit to the joint standing committees of the Legislature having jurisdiction over retail marijuana matters, criminal justice and public safety matters and judicial matters a report regarding the progress made by the department in meeting the requirements of this section. The report must include any proposed legislation necessary for the department to meet the requirements of this section by January 15, 2020. After reviewing the report, the joint standing committee of the Legislature having jurisdiction over retail marijuana matters may report out legislation relating to the report to the First Regular Session of the 129th Legislature. The joint standing committees of the Legislature having jurisdiction over criminal justice and public safety matters and judicial matters may make recommendations to the joint standing committee of the Legislature having jurisdiction over retail marijuana matters regarding that legislation.

PART D

Sec. D-1. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Retail Marijuana Regulatory Coordination Fund N233

Initiative: Provides funding for one Public Service Manager II position, one Secretary Specialist position, 4 Public Service Coordinator I positions, 4 Marijuana Enforcement Officer positions, one Marijuana Tax Auditor position and 3 Office Associate positions.

GENERAL FUND	2017-18	2018-19
POSITIONS - LEGISLATIVE COUNT	0.000	14.000
Personal Services	\$0	\$850,000
GENERAL FUND TOTAL	\$0	\$850,000

Retail Marijuana Regulatory Coordination Fund N233

Initiative: Provides funding for 2 Planning and Research Associate I positions, 6 Marijuana Enforcement Officer positions, 2 Marijuana Tax Auditor positions and 2 Office Associate II positions.

ROOM 18

COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719

1	GENERAL FUND	2017-18	2018-19
2	POSITIONS - LEGISLATIVE COUNT	0.000	12.000
3	Personal Services	\$0	\$700,000
4			
5	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$700,000</u>

6 **Retail Marijuana Regulatory Coordination Fund N233**

7 Initiative: Provides funding for All Other costs.

8	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
9	All Other	\$0	\$550,000
10			
11	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$550,000</u>

12 **Retail Marijuana Regulatory Coordination Fund N233**

13 Initiative: Provides funding for a tracking/traceability system and licensing system
14 software.

15	GENERAL FUND	2017-18	2018-19
16	All Other	\$0	\$550,000
17			
18	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$550,000</u>

19 **Retail Marijuana Regulatory Coordination Fund N233**

20 Initiative: Provides funding for 6 Consumer Protection Inspector positions.

21	GENERAL FUND	2017-18	2018-19
22	POSITIONS - LEGISLATIVE COUNT	0.000	6.000
23	Personal Services	\$0	\$478,806
24			
25	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$478,806</u>

26 **Retail Marijuana Regulatory Coordination Fund N233**

27 Initiative: Provides funding for one Public Service Coordinator I position, one Planning
28 and Research Associate II position and one Chemist II position.

29	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
30	POSITIONS - LEGISLATIVE COUNT	0.000	3.000
31	Personal Services	\$0	\$278,017
32			
33	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$278,017</u>

COMMITTEE AMENDMENT

R.O.P.S

COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719

1 **Revenue Services, Bureau of 0002**
2 Initiative: Provides funding for one Tax Examiner position and related programming and
3 All Other costs to process and audit income tax filings.

4	GENERAL FUND	2017-18	2018-19
5	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
6	Personal Services	\$0	\$63,623
7	All Other	\$0	\$81,416
8			
9	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$145,039</u>

10	ADMINISTRATIVE AND FINANCIAL		
11	SERVICES, DEPARTMENT OF		
12	DEPARTMENT TOTALS	2017-18	2018-19
13			
14	GENERAL FUND	\$0	\$2,723,845
15	OTHER SPECIAL REVENUE FUNDS	\$0	\$828,017
16			
17	DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>\$3,551,862</u>

18 **AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF**
19 **Marijuana Regulation and Licensing Fund Z262**
20 Initiative: Removes allocations for one Consumer Protection Inspector position, one pool
21 vehicle and position technology costs for the transfer of regulatory authority from the
22 Department of Agriculture, Conservation and Forestry to the Department of
23 Administrative and Financial Services.

24	OTHER SPECIAL REVENUE FUNDS	2017-18	2018-19
25	POSITIONS - LEGISLATIVE COUNT	(1.000)	(1.000)
26	Personal Services	(\$76,032)	(\$79,801)
27	All Other	(\$15,000)	(\$12,500)
28			
29	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>(\$91,032)</u>	<u>(\$92,301)</u>

30	AGRICULTURE, CONSERVATION AND		
31	FORESTRY, DEPARTMENT OF		
32	DEPARTMENT TOTALS	2017-18	2018-19
33			
34	OTHER SPECIAL REVENUE FUNDS	(\$91,032)	(\$92,301)
35		<u></u>	<u></u>

COMMITTEE AMENDMENT

8085

COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719

1	GENERAL FUND TOTAL	\$0	\$2,250
2	LEGISLATURE		
3	DEPARTMENT TOTALS	2017-18	2018-19
4			
5	GENERAL FUND	\$0	\$4,500
6			
7	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$4,500
8	PUBLIC SAFETY, DEPARTMENT OF		
9	State Police 0291		
10	Initiative: Provides funding for 2 Paralegal positions and related costs to review and make		
11	confidential all eligible marijuana convictions.		
12	GENERAL FUND	2017-18	2018-19
13	POSITIONS - LEGISLATIVE COUNT	0,000	2,000
14	Personal Services	\$0	\$138,288
15	All Other	\$0	\$47,151
16			
17	GENERAL FUND TOTAL	\$0	\$185,439
18	HIGHWAY FUND	2017-18	2018-19
19	Personal Services	\$0	\$74,462
20	All Other	\$0	\$27,177
21			
22	HIGHWAY FUND TOTAL	\$0	\$101,639
23	PUBLIC SAFETY, DEPARTMENT OF		
24	DEPARTMENT TOTALS	2017-18	2018-19
25			
26	GENERAL FUND	\$0	\$185,439
27	HIGHWAY FUND	\$0	\$101,639
28			
29	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$287,078
30	SECTION TOTALS	2017-18	2018-19
31			
32	GENERAL FUND	\$0	\$2,838,784

COMMITTEE AMENDMENT

WOPS

1	HIGHWAY FUND	\$0	\$101,639
2	OTHER SPECIAL REVENUE FUNDS	(\$91,032)	\$735,716
3			
4	SECTION TOTAL - ALL FUNDS	(\$91,032)	\$3,676,139
5			

6 **SUMMARY**

7 This amendment replaces the bill and is the minority report of the committee. Under
8 this amendment, as directed by a revision clause, the term "marijuana" will be replaced
9 with the term "cannabis" in the Maine Revised Statutes. This amendment makes the
10 following changes to the Marijuana Legalization Act, referred to in this summary as "the
11 Act."

12 1. It changes provisions in the Act that authorize the state licensing authority, which
13 is the Department of Administrative and Financial Services, to delegate rulemaking to
14 other state agencies as cited under the Act to say that the state licensing authority may, or
15 in some instances must, consult with those agencies regarding rulemaking.

16 2. It expands the type of retail marijuana licenses that may be established under the
17 Act to include transportation licenses, delivery services licenses, storage service licenses,
18 research licenses and special event licenses for on-premises consumption of marijuana.

19 3. It directs the state licensing authority to ensure that the license privileges
20 encourage competition with the unregulated marijuana market and allow for small-scale
21 cultivators and products manufacturers to have a streamlined application process for
22 licenses that authorize retail sales directly to consumers.

23 4. It provides that law enforcement, upon encountering a representative of a retail
24 marijuana licensee transporting marijuana, must presume that the possession, cultivation
25 and transportation of the marijuana is legal and in compliance with the Act. This
26 presumption of lawful possession, cultivation and transportation of marijuana is also
27 applied to a person 21 years of age or older.

28 5. It amends the several provisions in the Act that state the Act is not intended to
29 limit law enforcement authority to investigate unlawful activity related to a retail
30 marijuana establishment to clarify that law enforcement's role is to investigate only
31 suspected criminal activity as the Act authorizes the state licensing authority to regulate
32 retail marijuana licensees for other violations related to the operation of a licensed
33 establishment.

34 6. It amends the definition of "plant canopy" to include in the calculation of plant
35 canopy only those areas in which mature marijuana plants are to be cultivated.

36 7. It repeals the statewide cultivation cap under the Act and establishes a new
37 structure for retail marijuana cultivation facility licenses that allows for, among other
38 cultivation license types, nursery cultivation facilities and small cultivator cooperatives.

39 8. It requires licenses for licensed retail marijuana establishments and social clubs to
40 prohibit the licensees from transferring information to an official with the Federal

COMMITTEE AMENDMENT

R.D.F.S.

COMMITTEE AMENDMENT "B" to H.P. 1199, L.D. 1719

1 Government regarding any person who transacts business with the licensees unless
2 presented with a court order or search warrant.

3 9. It allows for the consumption of marijuana on the premises of a retail marijuana
4 store licensee that is not licensed as a social club under a temporary license issued by the
5 state licensing authority or under a permanent license issued by the state licensing
6 authority as part of a licensing pilot project.

7 10. It permits a municipality to impose a licensing fee and a public health and safety
8 impact fee on marijuana licensees within the municipality and also allows for a local
9 option sales tax.

10 11. It specifies that the Act, or rules adopted pursuant to the Act, may not be
11 construed as altering existing penalties, including those relating to actions such as
12 operating vehicles while impaired by marijuana, or laws prohibiting furnishing marijuana
13 to persons under 21 years of age or the possession of marijuana on the grounds of a
14 public or private school where children attend classes or as altering other similar laws
15 governing marijuana.

16 12. It provides protections of parental rights similar to those under the Maine
17 Medical Use of Marijuana Act pertaining to the lawful possession or consumption of
18 marijuana.

19 13. It prohibits a law enforcement officer from engaging in profiling or taking action
20 resulting from profiling to enforce provisions of the Act. The amendment provides a
21 definition of profiling.

22 14. It provides that the Retail Marijuana Regulatory Coordination Fund must be used
23 to support public and behavioral health programs and services, including evidence-based
24 substance abuse prevention and treatment programs, and for training municipal police in
25 restorative justice and other programs mitigating negative social impacts.

26 15. It establishes a working group on retail marijuana energy and environmental
27 standards, the Special Commission on Impaired Driving and the Marijuana Advisory
28 Commission. It also directs the development of a marijuana research agenda and a craft
29 marijuana report regarding marijuana industry participation of farmers and businesses of
30 all sizes.

31 16. It establishes a retail sales tax rate of 17.5% on marijuana sold by licensees under
32 the Act.

33 17. It requires that rules required under the Act must be provisionally adopted by
34 December 1, 2018. In adopting such rules, the state licensing authority must consider
35 proposals considered by the Joint Select Committee on Marijuana Legalization
36 Implementation as amendments to the Marijuana Legalization Act.

37 18. It directs the Department of Public Safety, Bureau of State Police, State Bureau
38 of Identification to make confidential all records of criminal convictions in the State that
39 relate to convictions for activities that are now authorized under the Act.

COMMITTEE AMENDMENT



128th MAINE LEGISLATURE

LD 1719

LR 2805(03)

An Act To Implement a Regulatory Structure for Adult Use Marijuana

Fiscal Note for Bill as Amended by Committee Amendment *BCH-734*

Committee: Marijuana Legalization Implementation

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	\$1,273,234	(\$2,950,050)	(\$6,622,543)
Highway Fund	\$0	\$101,639	\$104,228	\$107,416
Appropriations/Allocations				
General Fund	\$0	\$2,838,784	\$3,319,950	\$3,423,707
Highway Fund	\$0	\$101,639	\$104,228	\$107,416
Other Special Revenue Funds	(\$91,032)	\$735,716	\$892,078	\$900,355
Revenue				
General Fund	\$0	\$1,565,550	\$6,270,000	\$10,046,250
Other Special Revenue Funds	\$0	\$865,860	\$1,727,355	\$1,926,105

Correctional and Judicial Impact Statements

Increases the number of civil suits.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional filing fees may increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

This bill requires that, as the state licensing authority, the Department of Administrative and Financial Services (DAFS) may, or in some instances must, consult with other state agencies regarding rulemaking. It removes the regulatory authority of the Department of Agriculture, Conservation and Forestry (ACF).

Sales Tax - The bill increases the sales tax on recreational marijuana and marijuana related products from 10% to 17.5%. The impact on General Fund revenue will be an increase of \$1,565,550 in fiscal year 2018-19, rising to \$6,270,000 the following year. Local Government Fund revenue will increase by \$31,950 in fiscal year 2018-19, rising to \$330,000 the following year.

CB(H-734)

License fee revenue - The bill creates manufacturing, retail store, social club, testing, occupational, delivery, transport, storage, special event, research and tiered cultivation licenses. License fees are estimated to generate Other Special Revenue Funds revenue of \$833,910 in fiscal year 2018-19 and almost \$1,400,000 the following year.

Medical Marijuana revenue - This bill may lead to a reduction in the number of Maine Medical Marijuana Program registrations, as some registrants may decide to participate only in the non-medical marijuana industry. If this occurs it would reduce revenue from registration fees that is now credited to the Maine Medical Use of Marijuana Fund to support that program. Any such reduction is expected to be minor.

Department of Administrative and Financial Services - The bill includes General Fund appropriations to DAFS of \$2,723,845 in fiscal year 2018-19. Of this amount, \$2,028,806 is for 32 ongoing permanent positions, \$550,000 is a one-time appropriation to design and/or acquire tracking system and licensing system software and \$145,039 is for Maine Revenue Services within DAFS for one Tax Examiner position, related programming and All Other costs to process and audit income tax filings. Two additional Senior Revenue Agent positions will be required beginning in fiscal year 2019-20. Other Special Revenue Funds allocations to DAFS of \$828,017 in fiscal year 2018-19 are for 3 positions and All Other costs for the Retail Marijuana Regulatory Coordination Fund.

Department of Agriculture, Conservation and Forestry - Allocations of \$91,032 in fiscal year 2017-18 and \$92,301 in fiscal year 2018-19 for the Marijuana Regulation and Licensing Fund within ACF are removed.

Department of Public Safety - The bill includes General Fund appropriations of \$185,439 and Highway Fund allocations of \$101,639 to the Department of Public Safety in fiscal year 2018-19 for 2 Paralegal positions and related costs to review and make confidential all eligible marijuana convictions.

Maine Commission on Indigent Legal Services - This bill includes an ongoing deappropriation of \$75,000 in 2018-19 to the Maine Commission on Indigent Legal Services to reflect fewer cases of assigned counsel related to marijuana offenses.

Legislature - This bill provides an ongoing appropriation of \$4,500 in 2018-19 to the Legislature for the costs of legislators serving on the Marijuana Advisory Commission and the Special Commission on Impaired Driving.

Education, Labor, UMS, MCCS - Additional costs to the Department of Education, the Department of Labor, the University of Maine System and the Maine Community College System to participate in the development of the marijuana research agenda can be absorbed within existing budgeted resources.

DHHS - If marijuana use increases because of legalization, the number of child welfare cases reported to the Department of Health and Human Services could rise. Any increase in the number of investigations is not expected to increase costs to the department significantly.