

MAINE STATE LEGISLATURE

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Amendment Name: Amendment CA (S-453) (LD 2091 2020)

Date: 7/27/2020

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Date: (Filing No. S-)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
SENATE
129TH LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 741, L.D. 2091, Bill, “An Act To Amend the Marijuana Legalization Act and Make Other Implementing Changes”

Amend the bill by striking out everything after the title and inserting the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, licenses to authorize the cultivation, manufacturing, testing and sale of adult use marijuana and adult use marijuana products are expected to be issued in the near future; and

Whereas, the changes to the adult use marijuana laws in this Act must take effect prior to the issuance of such licenses; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 28-B MRSA §102, sub-§35, as amended by PL 2019, c. 528, §19, is further amended to read:

35. Marijuana trim. "Marijuana trim" means any part of a marijuana plant, whether processed or unprocessed, that is not marijuana flower or a marijuana seed except that "marijuana trim" does not include the stalks or roots of the marijuana plant. "Marijuana trim" does not include any part of a hemp plant as defined in Title 7, section 2231, subsection 1-A, paragraph D.

Sec. 2. 28-B MRSA §102, sub-§37, as amended by PL 2019, c. 528, §19, is further amended to read:

1 **37. Mother plant.** "Mother plant" means a ~~mature~~ marijuana plant that is used
2 solely for the taking of seedling cuttings. "Mother plant" does not include hemp as
3 defined in Title 7, section 2231, subsection 1-A, paragraph D.

4 **Sec. 3. 28-B MRSA §102, sub-§51,** as enacted by PL 2017, c. 409, Pt. A, §6, is
5 amended to read:

6 **51. Seedling.** "Seedling" means a marijuana plant that is:

7 A. Not flowering;

8 B. Less than ~~6~~ 12 inches in height; and

9 C. Less than ~~6~~ 12 inches in width.

10 **Sec. 4. 28-B MRSA §108,** as enacted by PL 2017, c. 409, Pt. A, §6, is amended to
11 read:

12 **§108. ~~Awareness and education on public~~ Public health and safety matters**
13 **programs**

14 The department shall develop and implement or facilitate the development and
15 implementation by a public or private entity of programs, initiatives and campaigns
16 focused on increasing the awareness and education of the public on health and safety
17 matters and in addressing public and behavioral health needs relating to the use of
18 marijuana and marijuana products, including, but not limited to, programs, initiatives and
19 campaigns focused on preventing and deterring the use of marijuana and marijuana
20 products by persons under 21 years of age and public and behavioral health programs and
21 services, including, but not limited to, evidence-based substance use prevention and
22 treatment programs, early intervention services and grants for schools or community-
23 based organizations that provide programs for youth substance use education and
24 prevention as described under Title 5, chapter 521. Programs, initiatives and campaigns
25 developed and implemented pursuant to this section may be funded with revenue from
26 the Adult Use Marijuana Public Health and Safety Fund established in section 1101. The
27 department may adopt rules to implement this section.

28 **Sec. 5. 28-B MRSA §109,** as enacted by PL 2017, c. 409, Pt. A, §6, is amended to
29 read:

30 **§109. Enhanced training for criminal justice agencies and municipalities**

31 The department shall develop and implement or facilitate the development and
32 implementation by a public or private entity of programs or initiatives providing
33 enhanced training for criminal justice agencies and municipal officers and employees in
34 the requirements and enforcement of this chapter and the rules adopted pursuant to this
35 chapter, including, but not limited to, programs providing grants to regional or local
36 criminal justice agencies and municipalities to train law enforcement officers and, when
37 applicable, municipal officers and employees, in ~~inspections,~~ investigations, searches,
38 seizures, forfeitures and personal use and home cultivation allowances under this chapter
39 and chapter 3 and the rules adopted pursuant to this chapter ~~and;~~ in drug recognition
40 procedures and the general enforcement of the State's motor vehicle ~~and criminal~~ laws
41 relating to the use of marijuana; and in restorative justice, jail diversion, marijuana

1 industry-specific technical assistance and mentoring for economically disadvantaged
2 persons in communities disproportionately affected by high rates of arrest and
3 incarceration for marijuana-related offenses. Training programs or initiatives ~~for criminal~~
4 ~~justice agencies~~ developed and implemented pursuant to this section may be funded with
5 revenue from the Adult Use Marijuana Public Health and Safety Fund established in
6 section 1101. The department may adopt rules to implement this section.

7 **Sec. 6. 28-B MRSA §501, sub-§6**, as amended by PL 2019, c. 231, Pt. B, §3, is
8 further amended to read:

9 **6. Limited authorization for sale of marijuana plants ~~and~~, marijuana seeds,**
10 **marijuana flower and marijuana trim by registered caregiver or registered**
11 **dispensary to cultivation facility licensee.** Notwithstanding any other provision of law
12 to the contrary and subject to the requirements and restrictions of this section, for a period
13 starting on the date that the department issues the first active cultivation facility license
14 under section 205, subsection 4 and, except as provided in paragraph A, ending ~~2 years~~
15 ~~after that date~~ January 1, 2021, a registered caregiver or a registered dispensary may sell
16 marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim to a
17 cultivation facility licensee that is also a registered caregiver or a registered dispensary
18 and a cultivation facility licensee that is also a registered caregiver or a registered
19 dispensary may purchase marijuana plants ~~and~~, marijuana seeds, marijuana flower and
20 marijuana trim from a registered caregiver or a registered dispensary. The department
21 shall post on its publicly accessible website information regarding the date on which the
22 department issues the first active cultivation facility license ~~and the date that is 2 years~~
23 ~~after the date the first active cultivation facility license is issued.~~

24 A. Beginning on the date that the department issues the first active cultivation
25 facility license and, except as provided by the department by rule pursuant to this
26 paragraph, ending ~~2 years after that date~~ January 1, 2021, in an active cultivation
27 facility license issued to any cultivation facility licensee that has demonstrated to the
28 department's satisfaction that the licensee is also a registered caregiver or a registered
29 dispensary, the department shall include language authorizing the licensee, at any
30 time ~~within the licensee's first year of licensure~~ prior to January 1, 2021 or the
31 expiration of the licensee's license, whichever is earlier, to purchase an unlimited
32 number of marijuana plants and marijuana seeds and an unlimited amount of
33 marijuana flower and marijuana trim from registered caregivers and registered
34 dispensaries. ~~This~~ The department may by rule extend the end date for the general
35 authorization under this subsection beyond January 1, 2021, except that the end date
36 may not be extended by the department beyond January 1, 2022. In the event that the
37 department adopts by rule an end date for the general authorization under this
38 subsection that is later than January 1, 2021, beginning on the effective date of the
39 rule, the department shall use that later end date in providing the specific
40 authorization that may be granted pursuant to this paragraph to a cultivation facility
41 licensee that is also a registered caregiver or a registered dispensary. The
42 authorization under this paragraph may not be included in any cultivation facility
43 license issued upon renewal under section 209.

44 B. A cultivation facility licensee authorized pursuant to paragraph A to purchase
45 marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim from
46 registered caregivers and registered dispensaries that transacts such a purchase shall

1 pay to the State Tax Assessor the excise taxes imposed pursuant to Title 36, chapter
2 723 on the sale of the marijuana plants ~~and~~, marijuana seeds, marijuana flower and
3 marijuana trim. In addition to payment of the required excise taxes under this
4 paragraph, the cultivation facility licensee shall provide the department with an
5 accounting of the transaction, which must include information on the registered
6 caregiver or registered dispensary from which the licensee purchased the marijuana
7 plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim; the number of
8 mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds
9 purchased in the transaction; the amount, by weight, of marijuana flower and
10 marijuana trim purchased in the transaction; and any other information required by
11 the department by rule.

12 C. A cultivation facility licensee authorized pursuant to paragraph A to purchase
13 marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim from
14 registered caregivers and registered dispensaries may purchase an unlimited number
15 of marijuana plants and marijuana seeds and an unlimited amount of marijuana
16 flower and marijuana trim from more than one registered caregiver or registered
17 dispensary and may transact more than one purchase of ~~marijuana plants and~~
18 ~~marijuana seeds~~ such items from a registered caregiver or registered dispensary. A
19 registered caregiver or registered dispensary may not sell marijuana plants ~~and~~,
20 marijuana seeds, marijuana flower or marijuana trim to more than one cultivation
21 facility licensee authorized pursuant to paragraph A to purchase ~~marijuana plants and~~
22 ~~marijuana seeds~~ such items from registered caregivers and registered dispensaries and
23 may ~~not~~ transact more than one sale of ~~marijuana plants and marijuana seeds~~ such
24 items to a cultivation facility licensee authorized to make such purchases pursuant to
25 paragraph A.

26 D. A cultivation facility licensee that violates this subsection or the rules adopted
27 pursuant to this subsection is subject to the imposition by the department of monetary
28 penalties, a license revocation or suspension and an order directing the destruction of
29 unauthorized marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana
30 trim pursuant to subchapter 8 in addition to any criminal or civil penalties that may be
31 imposed pursuant to other applicable laws or rules. A registered caregiver or
32 registered dispensary that violates ~~paragraph C~~ this subsection or the rules adopted
33 pursuant to this subsection is subject to the revocation of its registration or other
34 applicable penalty under the Maine Medical Use of Marijuana Act in addition to any
35 criminal or civil penalties that may be imposed pursuant to other applicable laws or
36 rules.

37 For the purposes of this subsection, "a cultivation facility licensee that is also a registered
38 caregiver or a registered dispensary" means a cultivation facility licensee that shares a
39 common officer, director, manager, general partner or direct financial interest with a
40 registered caregiver or a registered dispensary.

41 The department shall adopt rules to implement this subsection. Rules adopted pursuant to
42 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
43 2-A.

44 This subsection is repealed January 1, 2022.

1 **Sec. 7. 28-B MRSA §902, sub-§1**, as enacted by PL 2017, c. 409, Pt. A, §6, is
2 amended to read:

3 **1. Membership.** The commission consists of the following ~~15~~ 21 members:

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

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

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

12 D. The Commissioner of Agriculture, Conservation and Forestry or the
13 commissioner's designee;

14 E. The Commissioner of Health and Human Services or the commissioner's
15 designee;

16 F. The Commissioner of Labor or the commissioner's designee;

17 G. The Commissioner of Public Safety or the commissioner's designee;

18 H. The following ~~3~~ 6 members, appointed by the President of the Senate:

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

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

22 (3) A member of the public; ~~and~~

23 (4) A member of the public with demonstrated expertise in the cultivation of
24 marijuana or the manufacturing of marijuana concentrate and marijuana products;

25 (5) A representative of a statewide association representing defense attorneys;
26 and

27 (6) A representative of a national association ensuring equality of rights for all
28 persons; and

29 I. The following ~~3~~ 6 members, appointed by the Speaker of the House of
30 Representatives:

31 (1) A representative of a statewide association representing the adult use
32 marijuana industry;

33 (2) A member of the public with demonstrated expertise and credentials in
34 public health policy; ~~and~~

35 (3) A member of the public;

36 (4) A qualifying patient;

1 2. Like the bill, it amends the definition of "marijuana trim" to exclude the stalks and
2 roots of a marijuana plant.

3 3. Like the bill, it amends the definition of "seedling" to increase the size of what is
4 considered a seedling from less than 6 inches in height and width to less than 12 inches in
5 height and width.

6 4. It clarifies the scope of public health and safety programs to be implemented or
7 facilitated by the Department of Administrative and Financial Services by including
8 programs and services focused on public and behavioral health, to be funded through the
9 Adult Use Marijuana Public Health and Safety Fund established under the Maine Revised
10 Statutes, Title 28-B, section 1101. It also clarifies the scope of enhanced training for
11 criminal justice agencies to be implemented or facilitated by the department by making
12 eligible for that training municipal officials and employees and by including within that
13 scope training regarding restorative justice, jail diversion, marijuana industry-specific
14 technical assistance and mentoring for economically disadvantaged persons in
15 communities disproportionately affected by high rates of arrest and incarceration for
16 marijuana-related offenses, also to be funded through the Adult Use Marijuana Public
17 Health and Safety Fund.

18 5. It amends the provision in the law that provides a limited authorization for the sale
19 of marijuana plants and marijuana seeds by a registered caregiver or registered dispensary
20 to a cultivation facility licensee as follows.

21 A. It expands this provision to authorize the sale of marijuana flower and marijuana
22 trim in addition to marijuana plants and seeds, all of which are subject to payment of
23 the adult use marijuana excise tax.

24 B. It removes the prohibition on a registered caregiver's or registered dispensary's
25 conducting more than one sales transaction with a cultivation facility licensee under
26 this provision.

27 C. It clarifies the end date of the period in which the authorization to make such
28 purchases may be granted to a cultivation facility licensee by specifying that the end
29 date is January 1, 2021; however, it provides that the Department of Administrative
30 and Financial Services may by rule extend that end date beyond January 1, 2021 but
31 not beyond January 1, 2022. It does not change the limitation that this authorization
32 may be provided to a cultivation facility licensee only in an initial license and may
33 not be provided in a license issued upon renewal.

34 D. It clarifies that the requirement that a cultivation facility licensee eligible for this
35 authorization also be a registered caregiver or a registered dispensary means that the
36 licensee must share a common officer, director, manager, general partner or direct
37 financial interest with a registered caregiver or a registered dispensary.

38 E. It changes the department's rule-making authority relating to this provision from
39 major substantive rulemaking to routine technical rulemaking.

40 F. It repeals the provision authorizing such purchases on January 1, 2022.

41 It also amends the tax laws relating to the adult use marijuana excise tax to incorporate
42 the changes made to this limited authorization provision.

- 1 6. It amends the membership of the Marijuana Advisory Commission established
2 under Title 28-B, section 901, increasing the number of members from 15 to 21.



129th MAINE LEGISLATURE

LD 2091

LR 2999(02)

An Act To Amend the Marijuana Legalization Act and Make Other Implementing Changes

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium revenue increase - General Fund

Fiscal Detail and Notes

The bill adds to the excise tax marijuana flower and trim purchased from registered caregivers and registered dispensaries. This provision could increase General Fund revenues. No estimate is made at this time.