

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

SJK  
ROS

L.D. 353

Date: 6-15-21

(Filing No. H-633)

MINORITY  
VETERANS AND LEGAL AFFAIRS

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 251, L.D. 353, "An Act To Establish Medical Marijuana Cooperatives"

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

**'An Act To Establish Medical Caregiver Cooperatives'**

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

**Sec. 1. 22 MRSA §2422, sub-§1-A**, as amended by PL 2017, c. 452, §3, is repealed.

**Sec. 2. 22 MRSA §2422, sub-§1-D**, as enacted by PL 2017, c. 452, §3, is amended to read:

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

**Sec. 3. 22 MRSA §2422, sub-§1-G** is enacted to read:

**1-G. Caregiver cooperative.** "Caregiver cooperative" means an entity registered by the department under section 2423-A, subsection 15.

**Sec. 4. 22 MRSA §2423-A, sub-§1, ¶H**, as repealed and replaced by PL 2019, c. 331, §6, is amended to read:

H. Accept marijuana plants or harvested marijuana from a qualifying patient, caregiver, caregiver cooperative or registered dispensary if no remuneration is provided to the patient, caregiver, caregiver cooperative or dispensary;

**Sec. 5. 22 MRSA §2423-A, sub-§2, ¶K-1**, as amended by PL 2019, c. 354, §2, is further amended to read:

K-1. Transfer to and accept from another registered caregiver, a caregiver cooperative or a dispensary marijuana plants and harvested marijuana in a wholesale transaction in

1 accordance with this paragraph. A registered caregiver may transfer in wholesale  
 2 transactions for reasonable compensation or for no remuneration up to 75% of the  
 3 mature marijuana plants grown by the caregiver over the course of a calendar year,  
 4 including any marijuana products or marijuana concentrate manufactured from that  
 5 75% of the mature marijuana plants grown by the caregiver. A registered caregiver  
 6 may transfer to or accept from other registered caregivers, caregiver cooperatives and  
 7 dispensaries in wholesale transactions an unlimited amount of immature marijuana  
 8 plants and seedlings. A registered caregiver that acquires mature marijuana plants,  
 9 marijuana products or marijuana concentrate in a wholesale transaction under this  
 10 paragraph may not resell the mature marijuana plants, marijuana products or marijuana  
 11 concentrate except to a qualifying patient or to another registered caregiver, a caregiver  
 12 cooperative or a dispensary to assist a qualifying patient;

13 **Sec. 6. 22 MRSA §2423-A, sub-§3**, as amended by PL 2019, c. 217, §3, is further  
 14 amended to read:

15 **3. Cultivation of marijuana.** The following provisions apply to the cultivation of  
 16 marijuana plants by a qualifying patient under subsection 1 ~~and~~, a caregiver under  
 17 subsection 2 and a caregiver cooperative under subsection 15.

18 A. A patient who elects to cultivate marijuana plants must keep the plants in a  
 19 cultivation area unless the plants are being transported pursuant to subsection 1,  
 20 paragraph L. Access to a cultivation area is limited to the patient, except that  
 21 emergency services personnel, an assistant of a marijuana testing facility or a person  
 22 who needs to gain access to a cultivation area in order to perform repairs or  
 23 maintenance or to do construction may access a cultivation area to provide those  
 24 professional services while under the direct supervision of the patient.

25 B. A caregiver or a caregiver cooperative cultivating marijuana plants for a patient's  
 26 medical use must keep all plants in a cultivation area unless the plants are being  
 27 transported pursuant to subsection 2, paragraph O. Access to a cultivation area is  
 28 limited to the caregiver or a member of a caregiver cooperative, except that an elected  
 29 official invited by the caregiver or a member of a caregiver cooperative for the purpose  
 30 of providing education to the elected official on cultivation by the caregiver;  
 31 emergency services personnel; an assistant of a caregiver, a caregiver cooperative or  
 32 a marijuana testing facility; or a person who needs to gain access to a cultivation area  
 33 in order to perform repairs or maintenance or to do construction may access a  
 34 cultivation area to provide those professional services while under the direct  
 35 supervision of the caregiver or a member of a caregiver cooperative.

36 B-1. Except as provided in paragraph C, a caregiver is required to register with the  
 37 department.

38 C. The following caregivers are not required to register with the department:

- 39 (1) A caregiver designated to cultivate for a qualifying patient if that qualifying  
 40 patient is a member of the household of that caregiver;
- 41 (2) Two caregivers who are qualifying patients, if those caregivers are members  
 42 of the same household and assist one another with cultivation; and
- 43 (3) A caregiver who cultivates for a qualifying patient if that qualifying patient is  
 44 a member of the family of that caregiver.

1 C-1. A caregiver operating under paragraph C may engage in the conduct authorized  
2 in subsection 2, except that a caregiver operating under paragraph C may not:

3 (1) Cultivate marijuana plants for more than 2 members of the family or members  
4 of the same household;

5 (2) Cultivate more than 6 mature marijuana plants and 12 immature marijuana  
6 plants for each qualifying patient who has designated the caregiver to cultivate  
7 marijuana plants on the patient's behalf;

8 (3) Possess more than 8 pounds of harvested marijuana;

9 (4) Sell marijuana plants or harvested marijuana at wholesale under subsection 2,  
10 paragraph K-1;

11 (5) Use a pesticide under subsection 2, paragraph J;

12 (6) Operate a caregiver retail store under subsection 2, paragraph P; or

13 (7) Organize as a business entity under subsection 2, paragraph Q.

14 D. Two caregivers who are members of the same family or household may share the  
15 same cultivation area.

16 E. A person who is authorized to cultivate marijuana plants under subsection 1 or 2  
17 or 15 and who is an assistant of a caregiver pursuant to subsection 2, paragraph I or is  
18 an assistant of a caregiver cooperative pursuant to subsection 15, paragraph B may not  
19 cultivate that person's own marijuana plants in the cultivation area ~~by~~ of the caregiver  
20 or caregiver cooperative who employs that person.

21 **Sec. 7. 22 MRSA §2423-A, sub-§10, ¶A**, as repealed and replaced by PL 2019, c.  
22 331, §13, is amended to read:

23 A. A marijuana testing facility that meets the requirements of this subsection and any  
24 rules adopted under paragraph D may receive and possess samples from qualifying  
25 patients, caregivers, caregiver cooperatives, dispensaries and manufacturing facilities  
26 to provide testing for the cannabinoid profile and potency of the samples and for  
27 contaminants in the samples, including but not limited to mold, mildew, heavy metals,  
28 plant regulators and illegal pesticides. For the purposes of this paragraph, "plant  
29 regulator" has the same meaning as in Title 7, section 604, subsection 26.

30 **Sec. 8. 22 MRSA §2423-A, sub-§12**, as repealed and replaced by PL 2019, c. 331,  
31 §15, is amended to read:

32 **12. Interest.** A caregiver or an officer or director of a registered dispensary, registered  
33 caregiver, caregiver cooperative or manufacturing facility may not have a financial or other  
34 interest in a marijuana testing facility providing services associated with product labeling  
35 for that dispensary, caregiver, caregiver cooperative or manufacturing facility.

36 **Sec. 9. 22 MRSA §2423-A, sub-§15** is enacted to read:

37 **15. Caregiver cooperative.** A caregiver cooperative is governed by the provisions of  
38 this subsection.

39 A. Prior to operating as a caregiver cooperative, the cooperative shall obtain a  
40 registration certificate from the department in accordance with section 2425-A,

ROS

- 1 subsection 2. A caregiver cooperative may obtain only one registration certificate for  
2 the cooperative.
- 3 B. Except as otherwise provided in paragraphs D and E, a caregiver cooperative may  
4 engage in all of the activities authorized under subsection 2.
- 5 C. The membership of a caregiver cooperative is subject to the following requirements:
- 6 (1) A caregiver cooperative may have no more than 10 members;
- 7 (2) Only registered caregivers may be members of a caregiver cooperative. A  
8 registered caregiver who is a member of a caregiver cooperative may also be  
9 organized as any type of legal business entity in accordance with subsection 2,  
10 paragraph Q;
- 11 (3) A member of a caregiver cooperative may not have a controlling interest in or  
12 be employed by a registered dispensary, manufacturing facility or marijuana  
13 testing facility or a marijuana establishment, as defined in Title 28-B, section 102,  
14 subsection 29; and
- 15 (4) At least one member of a caregiver cooperative must have filed an income tax  
16 return indicating farm income in the year prior to the filing of an application for a  
17 registration certificate.
- 18 D. A caregiver cooperative may cultivate marijuana plants in up to 5 locations and  
19 may manufacture harvested marijuana in up to 3 locations. Any cultivation area  
20 separately authorized for a member of a cooperative in accordance with subsection 2  
21 is not included for the purposes of calculating the number of allowable cultivation areas  
22 under this paragraph.
- 23 E. A caregiver cooperative may cultivate no more than 500 square feet of plant canopy  
24 of marijuana plants per member. Any plant canopy separately authorized for a member  
25 of a cooperative in accordance with subsection 2, paragraph B is included for the  
26 purposes of calculating the amount of plant canopy allowed under this paragraph. The  
27 plant canopy may be cultivated by members of the caregiver cooperative, as determined  
28 by the caregiver cooperative, on different parcels of land owned or leased by members  
29 of the caregiver cooperative and in accordance with section 2429-D.
- 30 F. A caregiver cooperative must operate in accordance with accepted cooperative  
31 principles adopted by an internationally known alliance of cooperatives.

32 **Sec. 10. 22 MRSA §2423-D, 2nd ¶**, as enacted by PL 2019, c. 209, §1, is amended  
33 to read:

34 The department shall maintain a list of other jurisdictions that authorize the medical  
35 use of marijuana and the images of the valid medical marijuana certifications from those  
36 jurisdictions and make that information available to registered caregivers, caregiver  
37 cooperatives and registered dispensaries.

38 **Sec. 11. 22 MRSA §2423-F, sub-§3, ¶A**, as repealed and replaced by PL 2019, c.  
39 331, §17, is amended to read:

40 A. A qualifying patient, caregiver, caregiver cooperative, registered dispensary or  
41 manufacturing facility may engage in marijuana extraction using inherently hazardous  
42 substances if the person can produce, upon demand of the department:

ROS

- 1 (1) Certification from a professional engineer licensed in this State of the safety
- 2 of the equipment used for marijuana extraction and the location of the equipment
- 3 and the professional engineer's approval of the standard operating procedures for
- 4 the marijuana extraction;
- 5 (2) Documentation from a professional engineer licensed in this State or a state or
- 6 local official authorized to certify compliance that the equipment used for
- 7 marijuana extraction and the location of the equipment comply with state law and
- 8 all applicable local and state building codes, electrical codes and fire codes,
- 9 including the chapters of the most recent National Fire Protection Association Fire
- 10 Code relating to marijuana extraction facilities;
- 11 (3) Documentation from the manufacturer of the marijuana extraction system or a
- 12 professional engineer licensed in this State showing that a professional grade,
- 13 closed-loop extraction system that is capable of recovering the solvents used to
- 14 produce marijuana concentrate is used by the person; and
- 15 (4) Evidence that the person has provided notice to the department of the person's
- 16 intent to engage in marijuana extraction using inherently hazardous substances and
- 17 the location where the marijuana extraction will occur prior to engaging in
- 18 marijuana extraction using inherently hazardous substances.

19 A person that intends to engage in marijuana extraction using inherently hazardous  
20 substances shall notify the department of that intention prior to engaging in marijuana  
21 extraction using inherently hazardous substances. The department may deny an  
22 application of a person authorized under this paragraph to register pursuant to rules  
23 adopted under subsection 10 if the person did not notify the department in accordance  
24 with this paragraph.

25 **Sec. 12. 22 MRSA §2423-F, sub-§3, ¶B,** as repealed and replaced by PL 2019, c.  
26 331, §17, is amended to read:

27 B. A person that is not a qualifying patient, caregiver, caregiver cooperative or  
28 dispensary and that meets the requirements of a person authorized under paragraph A,  
29 pays the fee required by section 2425-A, subsection 10 and meets the requirements of  
30 rules adopted under subsection 10 is authorized to engage in marijuana extraction using  
31 inherently hazardous substances and may possess up to 40 pounds of harvested  
32 marijuana in accordance with subsection 5.

33 **Sec. 13. 22 MRSA §2423-F, sub-§4, ¶B,** as repealed and replaced by PL 2019, c.  
34 331, §17, is amended to read:

35 B. May obtain harvested marijuana from a qualifying patient, a caregiver, a caregiver  
36 cooperative or a registered dispensary and may transfer marijuana products and  
37 marijuana concentrate to the person that provided the harvested marijuana used to  
38 manufacture the marijuana product or marijuana concentrate;

39 **Sec. 14. 22 MRSA §2423-F, sub-§5, ¶B,** as repealed and replaced by PL 2019, c.  
40 331, §17, is amended to read:

41 B. May obtain harvested marijuana from a qualifying patient, a caregiver, a caregiver  
42 cooperative or a dispensary and may transfer marijuana concentrate to the person that  
43 provided the harvested marijuana used to produce the marijuana concentrate;

ROS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43

**Sec. 15. 22 MRSA §2424, sub-§4**, as amended by PL 2019, c. 217, §4, is further amended to read:

**4. Enforcement and compliance.** The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A regarding enforcement and compliance of authorized conduct under this chapter, including rules governing:

A. Minimum oversight requirements for dispensaries ~~and~~, registered caregivers and caregiver cooperatives, the one permitted additional location at which a dispensary cultivates marijuana plants for medical use by qualifying patients and any location at which a caregiver cooperative cultivates marijuana plants for medical use by qualifying patients; and

B. Minimum security requirements for registered caregivers operating caregiver retail stores pursuant to section 2423-A, subsection 2, paragraph P or caregiver cooperatives operating retail stores pursuant to section 2423-A, subsection 15, paragraph B and registered dispensaries and any additional location at which a dispensary cultivates marijuana plants for medical use by qualifying patients.

**Sec. 16. 22 MRSA §2425-A, sub-§2**, as enacted by PL 2017, c. 452, §12, is amended to read:

**2. Required registration.** A caregiver, other than a caregiver operating under section 2423-A, subsection 3, paragraph C, and an officer or director or assistant of a dispensary or a caregiver, other than a caregiver operating under section 2423-A, subsection 3, paragraph C, shall obtain a registry identification card in accordance with subsections 3, 4 and 5. A long-term care facility designated by a qualifying patient pursuant to section 2423-A, subsection 1, paragraph F-1, subparagraph (2) ~~and~~, a dispensary or a caregiver cooperative shall obtain a registration certificate in accordance with subsections 6, 7 and 8.

**Sec. 17. 22 MRSA §2425-A, sub-§8, ¶D**, as amended by PL 2019, c. 331, §20, is further amended to read:

D. The physical address of the certificate holder and, if the certificate holder is a dispensary or caregiver cooperative, the physical address of ~~one additional location~~, if any, location where marijuana plants will be cultivated; and

**Sec. 18. 22 MRSA §2425-A, sub-§9**, as enacted by PL 2017, c. 452, §12, is amended to read:

**9. Drug testing.** The department may not require an assistant of a caregiver, dispensary, manufacturing facility or marijuana testing facility who is an applicant for a registry identification card to submit to a drug test as a condition of receiving a registry identification card. This subsection does not prevent a caregiver, caregiver cooperative, dispensary, manufacturing facility or marijuana testing facility from requiring drug testing of its assistants as a condition of employment.

**Sec. 19. 22 MRSA §2425-A, sub-§10, ¶A**, as enacted by PL 2017, c. 452, §12, is amended to read:

A. There is no annual registration fee for a qualifying patient or visiting qualifying patient ~~or~~, a caregiver who is not required to register pursuant to section 2423-A, subsection 3, paragraph C or a caregiver cooperative. There is no annual registration fee for a caregiver who does not cultivate marijuana plants for a qualifying patient.

ROS

1           **Sec. 20. 22 MRSA §2425-A, sub-§11, ¶D**, as enacted by PL 2017, c. 452, §12, is  
2 amended to read:

3           D. A registered dispensary or caregiver cooperative shall notify the department in  
4 writing if the dispensary changes the physical location of the dispensary or the location  
5 at which the dispensary cultivates marijuana plants.

6           **Sec. 21. 22 MRSA §2425-A, sub-§12, ¶A**, as enacted by PL 2017, c. 452, §12, is  
7 amended to read:

8           A. Applications and supporting information submitted by qualifying patients and  
9 registered patients under this chapter, including information regarding their caregivers,  
10 caregiver cooperatives and medical providers, are confidential.

11           **Sec. 22. 22 MRSA §2425-A, sub-§12, ¶B**, as enacted by PL 2017, c. 452, §12, is  
12 amended to read:

13           B. Applications and supporting information submitted by caregivers, caregiver  
14 cooperatives and medical providers operating in compliance with this chapter are  
15 confidential.

16           **Sec. 23. 22 MRSA §2425-A, sub-§12, ¶G**, as enacted by PL 2017, c. 452, §12, is  
17 amended to read:

18           G. Records maintained by the department pursuant to this chapter that identify  
19 applicants for a registry identification card, registered patients, registered caregivers,  
20 caregiver cooperatives and registered patients' medical providers are confidential and  
21 may not be disclosed, except as provided in this subsection and as follows:

- 22                   (1) To department employees who are responsible for carrying out this chapter;
- 23                   (2) Pursuant to court order or subpoena issued by a court;
- 24                   (3) With written permission of the registered patient or the patient's guardian, if  
25 the patient is under guardianship, or a parent, if the patient has not attained 18 years  
26 of age;
- 27                   (4) As permitted or required for the disclosure of health care information pursuant  
28 to section 1711-C;
- 29                   (5) To a law enforcement official for verification purposes. The records may not  
30 be disclosed further than necessary to achieve the limited goals of a specific  
31 investigation; and
- 32                   (6) To a registered patient's treating medical provider and to a registered patient's  
33 registered caregiver for the purpose of carrying out this chapter.

34           **Sec. 24. 22 MRSA §2425-A, sub-§13**, as enacted by PL 2017, c. 452, §12, is  
35 amended to read:

36           **13. Reporting requirements.** This subsection governs the reporting of patient access  
37 information by registered caregivers, caregiver cooperatives and dispensaries and the  
38 department's annual report to the Legislature.

39           A. A registered caregiver, a caregiver cooperative or a dispensary shall submit  
40 annually a report of the number of qualifying patients and visiting qualifying patients  
41 assisted by the caregiver, caregiver cooperative or dispensary. A report may not

# COMMITTEE AMENDMENT



ROS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40

directly or indirectly disclose patient identity. The department 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. The department shall submit to the joint standing committee of the Legislature having jurisdiction over health and human services matters an annual report by April 1st each year that does not disclose any identifying information about cardholders or medical providers, but that does contain, at a minimum:

- (1) The number of applications and renewals filed for registry identification cards and registration certificates;
- (2) The number of qualifying patients ~~and~~, registered caregivers and caregiver cooperatives approved in each county;
- (3) The number of registry identification cards suspended or revoked;
- (4) The number of medical providers providing written certifications for qualifying patients;
- (5) The number of registered dispensaries, manufacturing facilities and marijuana testing facilities approved in each county;
- (6) The number of officers or directors or assistants of registered caregivers, registered dispensaries, manufacturing facilities and marijuana testing facilities; and
- (7) The revenue and expenses of the Medical Use of Marijuana Fund established in section 2430.

**Sec. 25. 22 MRSA §2426, sub-§1, ¶E**, as amended by PL 2019, c. 331, §21, is further amended to read:

E. Use or possess marijuana plants or harvested marijuana if that person is not a qualifying patient, caregiver, caregiver cooperative, registered dispensary or other person authorized to use or possess marijuana under this chapter.

**Sec. 26. 22 MRSA §2428, sub-§1-A, ¶E**, as repealed and replaced by PL 2019, c. 331, §23, is amended to read:

E. Obtain harvested marijuana from a caregiver under section 2423-A, subsection 2, paragraph K or a caregiver cooperative under section 2423-A, subsection 15, paragraph B;

**Sec. 27. 22 MRSA §2428, sub-§1-A, ¶F**, as amended by PL 2019, c. 331, §24 and repealed and replaced by c. 354, §7, is further amended by amending subparagraph (1) to read:

- (1) Transfer marijuana plants and harvested marijuana to a qualifying patient ~~and~~, to a caregiver on behalf of a qualifying patient and to a caregiver cooperative on behalf of a qualifying patient in a retail sale for reasonable compensation;

**Sec. 28. 22 MRSA §2428, sub-§1-A, ¶F**, as amended by PL 2019, c. 331, §24 and repealed and replaced by c. 354, §7, is further amended by amending subparagraph (2) to read:

ROS

1 (2) Transfer marijuana plants and harvested marijuana to a qualifying patient,  
2 caregiver, caregiver cooperative or dispensary for no remuneration;

3 **Sec. 29. 22 MRSA §2428, sub-§1-A, ¶F**, as amended by PL 2019, c. 331, §24 and  
4 repealed and replaced by c. 354, §7, is further amended by repealing subparagraph (4) and  
5 enacting the following in its place:

6 (4) Transfer to and accept from a registered caregiver, caregiver cooperative or  
7 another dispensary marijuana plants and harvested marijuana in a wholesale  
8 transaction in accordance with this paragraph. A dispensary may transfer in  
9 wholesale transactions for reasonable compensation or for no remuneration up to  
10 75% of the mature marijuana plants grown by the dispensary over the course of a  
11 calendar year, including any marijuana products or marijuana concentrate  
12 manufactured from that 75% of the mature marijuana plants grown by the  
13 dispensary. A dispensary may transfer to or accept from registered caregivers,  
14 caregiver cooperatives and dispensaries in wholesale transactions an unlimited  
15 amount of immature marijuana plants and seedlings. A dispensary that acquires  
16 mature marijuana plants, marijuana products or marijuana concentrate in a  
17 wholesale transaction under this subparagraph may not resell the mature marijuana  
18 plants, marijuana products or marijuana concentrate except to a qualifying patient  
19 or to a caregiver, caregiver cooperative or dispensary to assist a qualifying patient;

20 **Sec. 30. 22 MRSA §2429-A, sub-§3**, as enacted by PL 2017, c. 452, §18, is  
21 amended to read:

22 **3. Labels.** If a registered caregiver, caregiver cooperative, dispensary or  
23 manufacturing facility affixes a label on the packaging of any harvested marijuana provided  
24 to a qualifying patient and that label includes information about contaminants, the  
25 cannabinoid profile or potency of the harvested marijuana, the label must be verified by a  
26 marijuana testing facility. This subsection does not apply if there is no marijuana testing  
27 facility operating in accordance with section 2423-A, subsection 10.

28 **Sec. 31. 22 MRSA §2429-B, sub-§1**, as amended by PL 2019, c. 331, §29, is  
29 further amended to read:

30 **1. Prohibitions.** Signs, advertising and marketing used by or on behalf of a registered  
31 caregiver, caregiver cooperative or dispensary may not:

- 32 A. Be misleading, deceptive or false;
- 33 B. Involve mass-market advertising or marketing campaigns that have a high  
34 likelihood of reaching persons under 21 years of age or that are specifically designed  
35 to appeal particularly to persons under 21 years of age;
- 36 C. Be placed or otherwise used within 1,000 feet of the property line of a preexisting  
37 public or private school, except that, if a municipality chooses to prohibit the placement  
38 or use of signs or advertising by or on behalf of a registered caregiver, caregiver  
39 cooperative or dispensary at distances greater than or less than 1,000 feet but not less  
40 than 500 feet from the property line of a preexisting public or private school, that  
41 greater or lesser distance applies;
- 42 D. Violate any other requirement or restriction on signs, advertising and marketing  
43 imposed by the department by rule pursuant to subsection 2; or

ROS

1 E. Market to any person authorized to possess marijuana plants or harvested marijuana  
2 under this chapter and specifically to any adult use or recreational marijuana market  
3 within the same sign, advertisement or marketing material.

4 **Sec. 32. 22 MRSA §2429-B, sub-§2**, as enacted by PL 2017, c. 452, §18, is  
5 amended to read:

6 **2. Rules on signs, advertising and marketing.** The department shall adopt rules  
7 regarding the placement and use of signs, advertising and marketing by or on behalf of a  
8 registered caregiver, caregiver cooperative or dispensary, which may include, but are not  
9 limited to:

10 A. A prohibition on health or physical benefit claims in advertising or marketing,  
11 including, but not limited to, health or physical benefit claims on the label or packaging  
12 of harvested marijuana;

13 B. A prohibition on unsolicited advertising or marketing on the Internet, including, but  
14 not limited to, banner advertisements on mass-market websites;

15 C. A prohibition on opt-in advertising or marketing that does not permit an easy and  
16 permanent opt-out feature; and

17 D. A prohibition on advertising or marketing directed toward location-based devices,  
18 including, but not limited to, cellular telephones, unless the marketing is a mobile  
19 device application installed on the device by the owner of the device who is 21 years  
20 of age or older and includes a permanent and easy opt-out feature.

21 **Sec. 33. 22 MRSA §2429-D, first ¶**, as amended by PL 2019, c. 217, §5, is further  
22 amended to read:

23 Pursuant to the home rule authority granted under the Constitution of Maine, Article  
24 VIII, Part Second and Title 30-A, section 3001, a municipality may regulate registered  
25 caregivers, caregiver cooperatives, caregiver retail stores operating pursuant to section  
26 2423-A, subsection 2, paragraph P, registered dispensaries, marijuana testing facilities and  
27 manufacturing facilities.

28 **Sec. 34. 22 MRSA §2429-D, sub-§3**, as amended by PL 2019, c. 217, §5, is further  
29 amended to read:

30 **3. Municipal authorization needed.** Authorize caregiver retail stores, caregiver  
31 cooperatives, registered dispensaries, marijuana testing facilities and manufacturing  
32 facilities that are not operating on the effective date of this section to operate in the  
33 municipality unless the municipal legislative body, as defined in Title 30-A, section 2001,  
34 subsection 9, has voted to adopt or amend an ordinance or approve a warrant article  
35 allowing caregiver retail stores, caregiver cooperatives, registered dispensaries, marijuana  
36 testing facilities or manufacturing facilities, as applicable, to operate within the  
37 municipality.

38 **Sec. 35. 22 MRSA §2430-C, sub-§6**, as enacted by PL 2017, c. 452, §24, is  
39 amended to read:

40 **6. Prohibition on seizure and retention.** Except when necessary for an ongoing  
41 criminal or civil investigation, a law enforcement officer may not seize marijuana that is in  
42 the possession of a qualifying patient, caregiver, caregiver cooperative, marijuana testing

ROS

1 facility, manufacturing facility or registered dispensary as authorized by this chapter. A  
2 law enforcement officer in possession of marijuana in violation of this subsection shall  
3 return the marijuana within 7 days after receiving a written request for return by the owner  
4 of the marijuana. Notwithstanding the provisions of Title 14, chapter 741, if the law  
5 enforcement officer fails to return marijuana possessed in violation of this subsection  
6 within 7 days of receiving a written request for return of the marijuana under this  
7 subsection, the owner of the marijuana may file a claim in the District Court in the district  
8 where the owner lives or where the law enforcement officer is employed.

9 **Sec. 36. 22 MRSA §2430-C, sub-§9**, as enacted by PL 2017, c. 452, §24, is  
10 amended to read:

11 **9. Immunity.** The immunity provisions in this subsection apply to caregivers,  
12 caregiver cooperatives, marijuana testing facilities, manufacturing facilities and  
13 dispensaries and the officers or directors or assistants of caregivers, caregiver cooperatives,  
14 marijuana testing facilities, manufacturing facilities and dispensaries.

15 A. A caregiver, caregiver cooperative, marijuana testing facility, manufacturing  
16 facility or dispensary is not subject to prosecution, search, seizure or penalty in any  
17 manner, including but not limited to a civil penalty or disciplinary action by a business  
18 or an occupational or professional licensing board or entity, and may not be denied any  
19 right or privilege solely for acting in accordance with this section to assist with the  
20 medical use of marijuana in accordance with this chapter.

21 B. An officer or director or assistant of a caregiver, caregiver cooperative, marijuana  
22 testing facility, manufacturing facility or dispensary is not subject to arrest,  
23 prosecution, search, seizure or penalty in any manner, including but not limited to a  
24 civil penalty or disciplinary action by a business or an occupational or professional  
25 licensing board or entity, and may not be denied any right or privilege solely for  
26 working for or with a caregiver, caregiver cooperative, marijuana testing facility,  
27 manufacturing facility or dispensary to provide marijuana plants and marijuana  
28 products to qualifying patients, caregivers, caregiver cooperatives, dispensaries,  
29 manufacturing facilities or marijuana testing facilities or to otherwise assist with the  
30 medical use of marijuana in accordance with this chapter.

31 **Sec. 37. 22 MRSA §2430-D**, as enacted by PL 2017, c. 452, §24, is repealed and  
32 the following enacted in its place:

33 **§2430-D. Conduct and activities allowed by multiple caregivers**

34 In addition to conduct or activities allowed by this chapter, 2 or more caregivers may  
35 engage in conduct and activities as provided in this section.

36 **1. Caregivers assisting for the benefit of a mutual qualifying patient.** Two  
37 caregivers may engage in conduct and activities authorized by section 2423-A, subsection  
38 2 together to the extent the relationship is to:

39 A. Consult with each other to assist the same qualifying patient;

40 B. Refer a qualifying patient to a caregiver to obtain specialized marijuana plants or  
41 harvested marijuana;

42 C. Obtain specialized marijuana plants or harvested marijuana from another caregiver  
43 to assist the same qualifying patient; or

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41

D. Transfer harvested marijuana pursuant to section 2423-A, subsection 2, paragraph K.

2. Employer and assistant relationship. Two caregivers may together engage in conduct or activities authorized by section 2423-A, subsection 2 to the extent the relationship is as employer and assistant.

3. Caregivers sharing common areas. Any number of caregivers who are operating separately and occupying separate spaces within a common facility may engage in conduct or activities authorized under section 2423-A, subsection 2, and may share utilities or common areas, including but not limited to storage areas and building facilities, as long as they do not share marijuana plants or harvested marijuana resulting from the cultivation of those plants.

**Sec. 38. 22 MRSA §2430-G**, as amended by PL 2019, c. 331, §32, is further amended to read:

**§2430-G. Record keeping; inspections; reporting requirements**

**1. Tracking; record keeping.** This subsection governs the tracking, record-keeping and disclosure requirements of registered caregivers, caregiver cooperatives, registered dispensaries, marijuana testing facilities and manufacturing facilities.

A. A registered caregiver, a caregiver cooperative, a registered dispensary, a marijuana testing facility and a manufacturing facility shall:

- (1) Keep a record of all transfers of marijuana plants and harvested marijuana;
- (2) Keep the books and records maintained by the registered caregiver, caregiver cooperative, registered dispensary, marijuana testing facility or manufacturing facility for a period of 7 years;
- (3) Complete an annual audit of business transactions of the registered caregiver, caregiver cooperative, registered dispensary, marijuana testing facility or manufacturing facility by an independent 3rd party; and
- (4) Make the books and records maintained under this subsection available to inspection by the department upon the department's demand.

Records kept under this paragraph must avoid identifying qualifying patients.

B. The department shall develop and implement a statewide electronic portal through which registered caregivers, caregiver cooperatives, registered dispensaries, marijuana testing facilities and manufacturing facilities may submit to the department the records required under paragraph A and in accordance with rules adopted by the department. A registered caregiver, caregiver cooperative, registered dispensary, marijuana testing facility and manufacturing facility shall pay all costs and fees associated with the use of this electronic portal and all other fees associated with the keeping of records required in this section in accordance with rules adopted by the department. The department shall adopt rules regarding the process and content of records to be submitted, the frequency with which the records must be submitted, the costs and fees associated with using the electronic portal and any other requirements necessary to implement this paragraph.

1 C. A registered caregiver, caregiver cooperative, registered dispensary, marijuana  
 2 testing facility and manufacturing facility shall accompany all marijuana plants and  
 3 harvested marijuana being transported pursuant to this chapter with a label that  
 4 identifies:

- 5 (1) The person transferring the marijuana plants or harvested marijuana, including  
 6 the person's registry identification number;
- 7 (2) The person receiving the marijuana plants or harvested marijuana, including  
 8 the person's registry identification number or, if the person is not required to  
 9 register under this chapter, a unique identifier assigned to the person;
- 10 (3) A description of the marijuana plants or harvested marijuana being transferred,  
 11 including the amount and form;
- 12 (4) The time and date of the transfer; and
- 13 (5) The destination of the marijuana plants or harvested marijuana.

14 The department may adopt rules to implement this subsection.

15 **2. Inspections.** This subsection governs inspections of registered caregivers, caregiver  
 16 cooperatives, including the locations where cultivation of marijuana plants may occur,  
 17 registered dispensaries, including the additional location where cultivation of marijuana  
 18 plants may occur, marijuana testing facilities and manufacturing facilities.

19 A. Notwithstanding section 2423-A, subsection 3, paragraph B and section 2428,  
 20 subsection 6, paragraph I, to ensure compliance with this chapter or in response to a  
 21 complaint, the department may inspect the premises where a registered caregiver  
 22 conducts activity authorized under this chapter, a caregiver cooperative, including the  
 23 locations where cultivation of marijuana plants may occur, a registered dispensary  
 24 including the additional location where cultivation may occur, a marijuana testing  
 25 facility and a manufacturing facility without notice during regular business hours or  
 26 during hours of apparent activity, except that the department:

- 27 (1) May not enter the dwelling unit of a registered caregiver if the registered  
 28 caregiver is not present; and
- 29 (2) May inspect only the area of a dwelling unit where activity authorized under  
 30 this chapter occurs.

31 The department shall specify in writing to the registered caregiver or an officer or  
 32 director or assistant of a registered caregiver, caregiver cooperative, registered  
 33 dispensary, marijuana testing facility or manufacturing facility the grounds contained  
 34 in the complaint when conducting an inspection in response to a complaint.

35 B. The department shall adopt rules:

- 36 (1) Establishing standards for compliance with this chapter that are available  
 37 publicly;
- 38 (2) Establishing inspection procedures that prevent contamination of any  
 39 operations undertaken by the registered caregiver, caregiver cooperative,  
 40 registered dispensary, marijuana testing facility or manufacturing facility in  
 41 compliance with this chapter; and

ROS

1 (3) Requiring a registered caregiver to report on the location within the registered  
2 caregiver's home where activity authorized under this chapter is occurring.

3 Rules adopted by the department pursuant to this paragraph may require that an annual  
4 compliance inspection is a condition of eligibility for renewal of a registration under  
5 this chapter.

6 C. The department may suspend, revoke or refuse to renew the registration  
7 identification card or registration certificate of a registered caregiver, a caregiver  
8 cooperative, a registered dispensary, a marijuana testing facility or a manufacturing  
9 facility that refuses or willfully avoids 2 or more inspections under this subsection. A  
10 person whose registry identification card or registration certificate has been suspended,  
11 revoked or not renewed under this subsection may request a hearing in accordance with  
12 Title 5, chapter 375, subchapter 4.

13 D. The department may not conduct inspections of a qualifying patient or caregiver  
14 operating under section 2423-A, subsection ~~2~~ 3, paragraph C.

15 **3. Incident and illegal activity reporting.** A registered caregiver, caregiver  
16 cooperative, registered dispensary, marijuana testing facility and manufacturing facility  
17 shall report:

18 A. Any violation of this chapter or rule adopted under this chapter governing the  
19 operations of the registered caregiver, caregiver cooperative, registered dispensary,  
20 marijuana testing facility or manufacturing facility to the department within one  
21 business day of discovering the violation; and

22 B. Any suspected illegal activity involving the operations of the registered caregiver,  
23 caregiver cooperative, registered dispensary, marijuana testing facility or  
24 manufacturing facility to the department and law enforcement within 24 hours of  
25 discovering the suspected illegal activity.

26 **4. Procedures for suspending or terminating registration.** The department shall  
27 adopt rules establishing procedures for suspending or terminating the registration of a  
28 registered dispensary ~~or~~, a registered caregiver or a caregiver cooperative that violates the  
29 provisions of this section or the rules adopted pursuant to this subsection.

30 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
31 chapter 375, subchapter 2-A.

32 **Sec. 39. Appropriations and allocations.** The following appropriations and  
33 allocations are made.

34 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**  
35 **Medical Use of Marijuana Fund Z265**

36 Initiative: Provides allocations to establish 4 Chief Licensing Investigator positions, one  
37 Public Service Manager I position, one Field Investigator Supervisor position, 4 Field  
38 Investigator positions, one Planning and Research Associate I position, one Office  
39 Specialist I position and one limited-period part-time Planning and Research Associate II  
40 position to handle the additional requirements of the creation of marijuana caregiver  
41 cooperatives.

42 OTHER SPECIAL REVENUE FUNDS	2021-22	2022-23
--------------------------------	---------	---------

ROS

1	POSITIONS - LEGISLATIVE COUNT	12.000	12.000
2	Personal Services	\$1,113,666	\$1,113,190
3	All Other	\$216,287	\$135,211
4			
5	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$1,329,953</u>	<u>\$1,248,401</u>
6			

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

9 **SUMMARY**

10 This amendment replaces the bill and repeals the prohibition on medical marijuana  
11 collectives in order to permit caregiver cooperatives to operate. The amendment allows  
12 caregiver cooperatives that have obtained a registration certification to engage in all of the  
13 same activities authorized for registered caregivers. It establishes requirements on the  
14 membership and activities of a caregiver cooperative. The amendment provides for  
15 labeling, marketing, tracking, record keeping, inspections, incident and illegal activity  
16 reporting and procedures for suspending or terminating the registration certificates of  
17 caregiver cooperatives, in addition to mirroring for caregiver cooperatives other  
18 requirements of or protections for registered caregivers.

19 Current law allows medical marijuana caregivers to engage in conduct or activities  
20 together for the benefit of a mutual qualifying patient, under an employer and assistant  
21 relationship and when sharing common areas. This amendment preserves authorization for  
22 engaging in that conduct and those activities. The amendment also adds an appropriations  
23 and allocations section.

24 **FISCAL NOTE REQUIRED**  
25 (See attached)





# 130th MAINE LEGISLATURE

LD 353

LR 1276(02)

## An Act To Establish Medical Marijuana Cooperatives

Fiscal Note for Bill as Amended by Committee Amendment *ACH-633*

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$1,329,953	\$1,248,401	\$1,284,023	\$1,320,785

#### Fiscal Detail and Notes

This bill includes Other Special Revenue Funds allocations to the Department of Administrative and Financial Services of \$1,329,953 in fiscal year 2021-22 and \$1,248,401 in fiscal year 2022-23 to establish 4 Chief Licensing Investigator positions, one Public Service Manager I position, one Field Investigator Supervisor position, 4 Field Investigator positions, one Planning and Research Associate I position, one Office Specialist I position and one limited period part-time Planning and Research Associate II position to handle the additional requirements of the creation of marijuana cooperatives.