

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2022

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Legislative Document

No. 1957

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H.P. 1457

House of Representatives, February 4, 2022

**An Act To Promote Equity and Increase Opportunities in the Cannabis Industry by Removing Restrictions Related to Convictions for Drug Offenses and To Replace the Term "Marijuana" with the Term "Cannabis" in the Maine Revised Statutes**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on February 2, 2022. Referred to the Committee on Veterans and Legal Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative TALBOT ROSS of Portland.  
Cosponsored by Senator HICKMAN of Kennebec and  
Representatives: FAULKINGHAM of Winter Harbor, HARNETT of Gardiner, PLUECKER  
of Warren, SUPICA of Bangor, WARREN of Hallowell, WILLIAMS of Bar Harbor, Senator:  
MAXMIN of Lincoln.

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

2 **Sec. 1. 22 MRSA §2422, sub-§4**, as amended by PL 2009, c. 631, §10 and affected  
3 by §51, is repealed.

4 **Sec. 2. 22 MRSA §2423-A, sub-§2**, as amended by PL 2021, c. 367, §§1 to 6, is  
5 further amended to read:

6 **2. Caregiver.** Except as provided in section 2426, a caregiver, for the purpose of  
7 assisting a qualifying patient with the patient's medical use of marijuana cannabis, may  
8 engage in the following authorized conduct if the caregiver is a resident of the State, and is  
9 21 years of age or older ~~and has not been convicted of a disqualifying drug offense:~~

10 A. Possess all harvested marijuana cannabis produced by the caregiver's cultivation of  
11 marijuana cannabis plants under paragraph B;

12 A-1. Transfer up to 2 1/2 ounces of harvested marijuana cannabis to a qualifying  
13 patient in one transaction, except that a caregiver may not dispense more than 2 1/2  
14 ounces of harvested marijuana cannabis to a visiting qualifying patient during a 15-day  
15 period;

16 B. Cultivate up to 30 mature marijuana cannabis plants or 500 square feet of plant  
17 canopy, 60 immature marijuana cannabis plants and unlimited seedlings;

18 C-1. Assist a qualifying patient with the patient's medical use of marijuana cannabis;

19 E. Receive reasonable monetary compensation for costs associated with cultivating  
20 marijuana cannabis plants or assisting a qualifying patient with that patient's medical  
21 use of marijuana cannabis;

22 F. Be in the presence or vicinity of the medical use of marijuana cannabis and assist  
23 any patient with the medical use, administration or preparation of marijuana cannabis;

24 G. Manufacture marijuana cannabis products and marijuana cannabis concentrate for  
25 medical use, except that a caregiver may not manufacture food, as defined in section  
26 2152, subsection 4, unless the caregiver is licensed pursuant to section 2167 and except  
27 that a caregiver may not produce marijuana cannabis concentrate using inherently  
28 hazardous substances unless authorized pursuant to section 2423-F, subsection 3;

29 I. Hire any number of assistants who are 21 years of age or older to assist in performing  
30 the duties of the caregiver;

31 I-1. Hire any number of assistants who are 18 years of age or older and under 21 years  
32 of age if they are also a member of the family of the caregiver to assist in performing  
33 the duties of the caregiver;

34 J. Use a pesticide in the cultivation of marijuana cannabis plants if the pesticide is used  
35 consistent with federal labeling requirements, is registered with the Department of  
36 Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title  
37 7, section 607 and is used consistent with best management practices for pest  
38 management approved by the Commissioner of Agriculture, Conservation and  
39 Forestry. A registered caregiver may not in the cultivation of marijuana cannabis plants  
40 use a pesticide unless the registered caregiver or the registered caregiver's assistant is  
41 certified in the application of the pesticide pursuant to section 1471-D and any assistant  
42 who has direct contact with treated plants has completed safety training pursuant to 40

1 Code of Federal Regulations, Section 170.130. An assistant of the registered caregiver  
2 who is not certified pursuant to section 1471-D and who is involved in the application  
3 of the pesticide or handling of the pesticide or equipment must first complete safety  
4 training described in 40 Code of Federal Regulations, Section 170.230;

5 K. Transfer ~~marijuana~~ cannabis plants and harvested ~~marijuana~~ cannabis to a  
6 qualifying patient, another caregiver or a registered dispensary for no remuneration;

7 K-1. Transfer to and accept from another registered caregiver or a dispensary  
8 ~~marijuana~~ cannabis plants and harvested ~~marijuana~~ cannabis in a wholesale transaction  
9 in accordance with this paragraph. A registered caregiver may transfer in wholesale  
10 transactions for reasonable compensation or for no remuneration an unlimited amount  
11 of the mature ~~marijuana~~ cannabis plants grown by the caregiver over the course of a  
12 calendar year, including any ~~marijuana~~ cannabis products or ~~marijuana~~ cannabis  
13 concentrate manufactured from mature ~~marijuana~~ cannabis plants grown by the  
14 caregiver. A registered caregiver may transfer to or accept from other registered  
15 caregivers and dispensaries in wholesale transactions an unlimited amount of immature  
16 ~~marijuana~~ cannabis plants and seedlings. A registered caregiver that acquires mature  
17 ~~marijuana~~ cannabis plants, ~~marijuana~~ cannabis products or ~~marijuana~~ cannabis  
18 concentrate in a wholesale transaction under this paragraph may not resell the mature  
19 ~~marijuana~~ cannabis plants, ~~marijuana~~ cannabis products or ~~marijuana~~ cannabis  
20 concentrate except to a qualifying patient or to another registered caregiver or  
21 dispensary to assist a qualifying patient;

22 L. Provide samples to a ~~marijuana~~ cannabis testing facility for testing and research  
23 purposes;

24 M. Conduct ~~marijuana~~ cannabis testing at the request of anyone authorized to possess  
25 ~~marijuana~~ cannabis under this chapter for research and development purposes only;

26 N. Provide harvested ~~marijuana~~ cannabis to a manufacturing facility and obtain  
27 ~~marijuana~~ cannabis products and ~~marijuana~~ cannabis concentrate from the  
28 manufacturing facility that are produced from the harvested ~~marijuana~~ cannabis the  
29 caregiver provided to the manufacturing facility;

30 O. Transport ~~marijuana~~ cannabis plants or harvested ~~marijuana~~ cannabis for authorized  
31 conduct in accordance with this chapter;

32 P. Operate one caregiver retail store to sell harvested ~~marijuana~~ cannabis to qualifying  
33 patients for the patients' medical use in accordance with this chapter;

34 Q. Be organized as any type of legal business entity recognized under the laws of the  
35 State; and

36 R. Accept a digital image of a written certification for the purposes of initiating a  
37 transaction for harvested ~~marijuana~~ cannabis. The caregiver must verify the written  
38 certification in person before transferring any harvested ~~marijuana~~ cannabis to the  
39 qualifying patient.

40 **Sec. 3. 22 MRSA §2423-A, sub-§4**, as amended by PL 2019, c. 501, §12, is further  
41 amended to read:

42 **4. Long-term care facility.** A qualifying patient may designate a long-term care  
43 facility to assist with the qualifying patient's medical use of ~~marijuana~~ cannabis if that use

1 is consistent with the facility's policy and is pursuant to subsection 1, paragraph F-1,  
2 subparagraph (2). If a long-term care facility is designated, the facility shall complete the  
3 registration process with the department and obtain a registration certificate for the facility.  
4 For a long-term care facility to be issued a registration certificate, staff persons of the  
5 facility who will be assisting a qualifying patient with the patient's medical use of marijuana  
6 cannabis in accordance with this chapter must be at least 21 years of age ~~and may not have~~  
7 ~~been convicted of a disqualifying drug offense~~. The long-term care facility and the staff of  
8 the facility may not cultivate marijuana cannabis plants for the patient.

9 **Sec. 4. 22 MRSA §2423-F, sub-§8, ¶B**, as repealed and replaced by PL 2019, c.  
10 331, §17, is amended by amending the first blocked paragraph to read:

11 ~~The department may not issue a registry identification card to an officer or director or~~  
12 ~~assistant of a registered manufacturing facility or person authorized to engage in~~  
13 ~~marijuana extraction using inherently hazardous substances who has been convicted of~~  
14 ~~a disqualifying drug offense~~. The department shall conduct a criminal history record  
15 check of each person, officer or director or assistant subject to this subsection on an  
16 annual basis.

17 **Sec. 5. 22 MRSA §2425-A, sub-§3**, as amended by PL 2021, c. 367, §11, is further  
18 amended by amending the first blocked paragraph to read:

19 The department shall conduct a criminal history record check for any applicant for a  
20 registry identification card. The criminal history record check is valid for one year from  
21 the date it was conducted, regardless of the person's employment status. ~~Except as provided~~  
22 ~~in subsection 3-A, the department may not issue a registry identification card to an~~  
23 ~~applicant who is not permitted under this chapter to have a disqualifying drug offense~~.

24 **Sec. 6. 22 MRSA §2425-A, sub-§3-A**, as amended by PL 2021, c. 387, §8, is  
25 further amended to read:

26 **3-A. Criminal history record check for caregivers administering medical**  
27 **marijuana cannabis on school grounds**. The department shall request a criminal history  
28 record check for a caregiver designated under section 2423-A, subsection 1, paragraph F-1,  
29 subparagraph (4), except for a caregiver who is a parent, a legal guardian or a person having  
30 legal custody of the qualifying patient. The department may not issue a registry  
31 identification card to an applicant ~~who is not permitted to have a disqualifying drug offense~~  
32 ~~or~~ who would be denied an approval, credential, certification, authorization or renewal  
33 under Title 20-A, section 6103 or 13011 based on that criminal history record check.

34 The criminal history record check requested under this subsection must include criminal  
35 history record information obtained from the Maine Criminal Justice Information System  
36 established in Title 16, section 631 and the Federal Bureau of Investigation. The following  
37 provisions apply.

38 A. The criminal history record information obtained from the Maine Criminal Justice  
39 Information System must include a record of public criminal history record information  
40 as defined in Title 16, section 703, subsection 8.

41 B. The criminal history record information obtained from the Federal Bureau of  
42 Investigation must include other state and national criminal history record information.

1 C. A person subject to a criminal history record check under this section shall submit  
2 to having fingerprints taken. The State Police, upon payment of the fee, shall take or  
3 cause to be taken the person's fingerprints and shall forward the fingerprints to the State  
4 Bureau of Identification so that the bureau can conduct state and national criminal  
5 history record checks. Except for the portion of the payment, if any, that constitutes  
6 the processing fee charged by the Federal Bureau of Investigation, all money received  
7 by the State Police for purposes of this paragraph must be paid over to the Treasurer of  
8 State. The money must be applied to the expenses of administration incurred by the  
9 Department of Public Safety.

10 D. The subject of a Federal Bureau of Investigation criminal history record check may  
11 obtain a copy of the criminal history record check by following the procedures outlined  
12 in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state  
13 criminal history record check may inspect and review the criminal history record  
14 information pursuant to Title 16, section 709.

15 E. State and federal criminal history record information may be used by the department  
16 for the purpose of screening a person in accordance with this chapter.

17 F. Information obtained pursuant to this subsection is confidential. The results of  
18 criminal history record checks received by the department are for official use only and  
19 may not be disseminated to any other person.

20 G. If a person is no longer subject to this chapter that person may request in writing  
21 that the State Bureau of Identification remove the person's fingerprints from the  
22 bureau's fingerprint file. In response to a written request, the bureau shall remove the  
23 person's fingerprints from the fingerprint file and provide written confirmation of that  
24 removal.

25 The department, with the Department of Public Safety, Bureau of State Police, State Bureau  
26 of Identification, shall adopt rules to implement this subsection. Rules adopted pursuant to  
27 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter  
28 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this subsection are major  
29 substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

30 **Sec. 7. 22 MRSA §2428, sub-§9, ¶D**, as amended by PL 2017, c. 452, §16, is  
31 repealed.

32 **Sec. 8. 28-B MRSA §102, sub-§15**, as enacted by PL 2017, c. 409, Pt. A, §6, is  
33 repealed.

34 **Sec. 9. 28-B MRSA §202, sub-§4**, as enacted by PL 2017, c. 409, Pt. A, §6, is  
35 repealed.

36 **Sec. 10. Maine Revised Statutes amended; revision clause.** Wherever in the  
37 Maine Revised Statutes the word "marijuana" appears, it is amended to read "cannabis"  
38 and the Revisor of Statutes shall implement this revision when updating, publishing or  
39 republishing the statutes.

40 **Sec. 11. Rules, forms, policies and publications.** On or after the effective date of  
41 this section, when adopting or amending rules and developing or publishing forms, policies  
42 and publications, the Department of Administrative and Financial Services' office of

1 marijuana policy and the Department of Health and Human Services shall replace  
2 references to "marijuana" with references to "cannabis."

3 **SUMMARY**

4 This bill removes prohibitions on participation in the cannabis industry under the  
5 Maine Medical Use of Marijuana Act and the Marijuana Legalization Act for persons  
6 convicted of drug offenses. Under this bill, as directed by a revision clause, the term  
7 "marijuana" will be replaced with the term "cannabis" in the Maine Revised Statutes. The  
8 bill also provides that when adopting or amending rules and developing or publishing  
9 forms, policies and publications, the Department of Administrative and Financial Services'  
10 office of marijuana policy and the Department of Health and Human Services must replace  
11 references to "marijuana" with references to "cannabis."