

MAINE STATE LEGISLATURE

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Date: 3/1/23

(Filing No. S- 7)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
SENATE
131ST LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 50, L.D. 83, "An Act to Clarify State Policy Regarding the Use of Cannabis Paraphernalia in the Maine Medical Use of Cannabis Act"

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

'An Act to Clarify State Policy Regarding Cannabis Paraphernalia in the Maine Medical Use of Cannabis Act and the Cannabis Legalization Act'

Amend the bill by striking out the emergency preamble and substituting 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, in October 2022, the Department of Administrative and Financial Services, Office of Cannabis Policy notified medical use of cannabis registrants and adult use cannabis licensees that they must obtain a retail tobacco license in order to sell or give away certain items used to inhale, ingest or otherwise consume cannabis; and

Whereas, on November 16, 2022, the Attorney General issued a memorandum stating that the Office of the Attorney General would not bring action against any medical use of cannabis registrant or adult use cannabis licensee for selling or providing cannabis rolled for smoking without a retail tobacco license and urging the Legislature to clarify in statute that a retail tobacco license is not required for a medical use of cannabis registrant or adult use cannabis licensee to sell or give away certain items used to inhale, ingest or otherwise consume cannabis; and

Whereas, until statutory clarity is provided, the cannabis industry will face economic and regulatory uncertainty and the state agencies regulating this industry will not be able to oversee the industry in an efficient or effective manner; 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,'

COMMITTEE AMENDMENT

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

3 **'Sec. 1. 22 MRSA §2422, sub-§17** is enacted to read:

4 **17. Cannabis paraphernalia.** "Cannabis paraphernalia" means equipment, products,
5 devices and materials that are used for planting, propagating, cultivating, harvesting,
6 processing, preparing, testing, packaging or storing cannabis for medical use or used for
7 ingesting, inhaling or otherwise consuming cannabis for medical use. "Cannabis
8 paraphernalia" includes, but is not limited to:

9 A. Kits used for planting, propagating, cultivating or harvesting a cannabis plant;

10 B. Isomerization devices used for adjusting the potency of a cannabis plant;

11 C. Testing equipment used for identifying or analyzing the potency, effectiveness or
12 purity of a cannabis plant or harvested cannabis;

13 D. Scales and balances used for weighing or measuring harvested cannabis;

14 E. Separation gins and sifters used for removing twigs and seeds from, or in otherwise
15 cleaning or refining, harvested cannabis;

16 F. Envelopes and other containers used for packaging small quantities of harvested
17 cannabis for medical use;

18 G. Containers and other objects used for storing harvested cannabis;

19 H. Rolling papers, cigarette papers or wraps used for rolling harvested cannabis for
20 smoking;

21 I. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens,
22 chillums or punctured metal bowls used for smoking harvested cannabis; and

23 J. Electronic smoking devices used for simulating the smoking of harvested cannabis
24 or cannabis products through the inhalation of vapor or aerosol from the device.

25 **Sec. 2. 22 MRSA §2423-A, sub-§2, ¶P**, as amended by PL 2021, c. 662, §12 and
26 c. 669, §5, is further amended to read:

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

29 **Sec. 3. 22 MRSA §2423-A, sub-§2, ¶Q**, as amended by PL 2021, c. 662, §13, is
30 further amended to read:

31 Q. Be organized as any type of legal business entity recognized under the laws of the
32 State; ~~and~~

33 **Sec. 4. 22 MRSA §2423-A, sub-§2, ¶S** is enacted to read:

34 S. Notwithstanding chapter 262-A, sell, offer to sell or furnish cannabis paraphernalia
35 to a qualifying patient, caregiver or registered dispensary for a qualifying patient's
36 medical use of cannabis.

37 **Sec. 5. 22 MRSA §2423-C**, as amended by PL 2017, c. 452, §6 and PL 2021, c.
38 669, §5, is further amended to read:

39 **§2423-C. Authorized conduct**

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1 A Notwithstanding chapter 262-A, a person may provide a ~~qualifying patient or a~~
2 caregiver or a registered dispensary with cannabis paraphernalia for purposes of the a
3 qualifying patient's medical use of cannabis in accordance with this chapter and. A person
4 may be in the presence or vicinity of the medical use of cannabis as allowed under this
5 chapter.

6 **Sec. 6. 22 MRSA §2426, sub-§1, ¶D,** as amended by PL 2009, c. 631, §38 and
7 affected by §51 and amended by PL 2021, c. 669, §5, is further amended to read:

8 D. Operate, navigate or be in actual physical control of any motor vehicle, aircraft,
9 motorboat, snowmobile or all-terrain vehicle while under the influence of cannabis; ~~or~~

10 **Sec. 7. 22 MRSA §2426, sub-§1, ¶E,** as amended by PL 2019, c. 331, §21 and PL
11 2021, c. 669, §5, is further amended to read:

12 E. Use or possess cannabis plants or harvested cannabis if that person is not a
13 qualifying patient, caregiver, registered dispensary or other person authorized to use or
14 possess cannabis under this chapter; ~~or~~

15 **Sec. 8. 22 MRSA §2426, sub-§1, ¶F** is enacted to read:

16 F. Sell, offer to sell or furnish any products containing tobacco, nicotine or synthetic
17 nicotine to any person without first obtaining a retail tobacco license in accordance
18 with chapter 262-A.

19 **Sec. 9. 22 MRSA §2428, sub-§1-A, ¶K,** as amended by PL 2021, c. 367, §14, is
20 further amended to read:

21 K. Hire any number of assistants who are 21 years of age or older to assist in
22 performing the duties of the dispensary; ~~and~~

23 **Sec. 10. 22 MRSA §2428, sub-§1-A, ¶L,** as enacted by PL 2017, c. 452, §16 and
24 amended by PL 2021, c. 669, §5, is further amended to read:

25 L. Transport cannabis plants and harvested cannabis as necessary to carry out the
26 activities authorized under this section; ~~and~~

27 **Sec. 11. 22 MRSA §2428, sub-§1-A, ¶M** is enacted to read:

28 M. Notwithstanding chapter 262-A, sell, offer to sell or furnish cannabis paraphernalia
29 to a qualifying patient or to a caregiver for a qualifying patient's medical use of
30 cannabis.

31 **Sec. 12. 28-B MRSA §102, sub-§31-A** is enacted to read:

32 **31-A. Cannabis paraphernalia.** "Cannabis paraphernalia" means equipment,
33 products, devices and materials that are used for planting, propagating, cultivating,
34 harvesting, processing, preparing, testing, packaging or storing adult use cannabis or used
35 for ingesting, inhaling or otherwise consuming adult use cannabis. "Cannabis
36 paraphernalia" includes, but is not limited to:

37 A. Kits used for planting, propagating, cultivating or harvesting a cannabis plant;

38 B. Isomerization devices used for adjusting the potency of a cannabis plant;

39 C. Testing equipment used for identifying or analyzing the potency, effectiveness or
40 purity of a cannabis plant or cannabis;

COMMITTEE AMENDMENT

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- 1 D. Scales and balances used for weighing or measuring cannabis;
- 2 E. Separation gins and sifters used for removing twigs and seeds from, or in otherwise
- 3 cleaning or refining, cannabis;
- 4 F. Envelopes and other containers used for packaging small quantities of cannabis for
- 5 adult use;
- 6 G. Containers and other objects used for storing cannabis;
- 7 H. Rolling papers, cigarette papers or wraps used for rolling cannabis for smoking;
- 8 I. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens,
- 9 chillums or punctured metal bowls used for smoking cannabis; and
- 10 J. Electronic smoking devices used for simulating the smoking of cannabis or cannabis
- 11 products through the inhalation of vapor or aerosol from the device.

12 **Sec. 13. 28-B MRSA §103, sub-§1, ¶B**, as enacted by PL 2017, c. 409, Pt. A, §6
13 and amended by PL 2021, c. 669, §5, is further amended to read:

14 B. Sell or offer for sale cannabis or cannabis products; ~~or~~

15 **Sec. 14. 28-B MRSA §103, sub-§1, ¶C**, as enacted by PL 2017, c. 409, Pt. A, §6
16 and amended by PL 2021, c. 669, §5, is further amended to read:

17 C. Use, possess, transport, transfer, furnish or purchase cannabis or cannabis products;
18 or

19 **Sec. 15. 28-B MRSA §103, sub-§1, ¶D** is enacted to read:

20 D. Sell, offer for sale or furnish any products containing tobacco, nicotine or synthetic
21 nicotine to any person without first obtaining a retail tobacco license in accordance
22 with Title 22, chapter 262-A.

23 **Sec. 16. 28-B MRSA §504, sub-§1, ¶A**, as enacted by PL 2017, c. 409, Pt. A, §6
24 and amended by PL 2021, c. 669, §5, is further amended to read:

25 A. Adult use cannabis; or adult use cannabis products ~~and cannabis paraphernalia~~;

26 **Sec. 17. 28-B MRSA §504, sub-§1, ¶C**, as enacted by PL 2017, c. 409, Pt. A, §6
27 and amended by PL 2021, c. 669, §5, is further amended to read:

28 C. Consumable products not containing cannabis, including, but not limited to, sodas,
29 candies and baked goods; ~~and~~

30 **Sec. 18. 28-B MRSA §504, sub-§1, ¶D**, as enacted by PL 2017, c. 409, Pt. A, §6
31 and amended by PL 2021, c. 669, §5, is further amended to read:

32 D. Any other nonconsumable products, including, but not limited to, apparel and
33 cannabis-related products; and

34 **Sec. 19. 28-B MRSA §504, sub-§1, ¶E** is enacted to read:

35 E. Notwithstanding Title 22, chapter 262-A, cannabis paraphernalia for adult use
36 cannabis or adult use cannabis products.'

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

COMMITTEE AMENDMENT

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SUMMARY

This amendment replaces the bill. It adds a definition of "cannabis paraphernalia" into the Maine Medical Use of Cannabis Act, Title 22, chapter 558-C, and the Cannabis Legalization Act, Title 28, chapter 1. It clarifies that a person may provide cannabis paraphernalia to a caregiver or registered dispensary for the medical use of cannabis, may be in the vicinity of the medical use of cannabis and is not required to obtain a retail tobacco license for this activity. It clarifies that a caregiver, registered dispensary or cannabis store may sell, offer to sell or furnish cannabis paraphernalia for the purpose of cannabis use and that a retail tobacco license is not required for this activity. It expressly prohibits a caregiver, registered dispensary or cannabis store from selling, offering to sell or furnishing products containing tobacco, nicotine or synthetic nicotine without first obtaining a retail tobacco license.

FISCAL NOTE REQUIRED

(See attached)



131st MAINE LEGISLATURE

LD 83

LR 425(02)

An Act to Clarify State Policy Regarding the Use of Cannabis Paraphernalia in the Maine Medical Use of Cannabis Act

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-7)

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Revenue				
Other Special Revenue Funds	\$0	(\$49,300)	(\$49,300)	(\$49,300)

Fiscal Detail and Notes

There will be a decrease in revenue in the Department of Health in Human Services of 49,300 annually beginning in FY 2024-25. The Health Inspection Program (HIP) in the Maine Center for Disease Control and Prevention issues retail tobacco licenses to applicants who are registered medical use cannabis caregivers and dispensaries subject to tobacco laws, in accordance with Title 22 MRSA, c. 262. If cannabis-use products are exempt, HIP will not be tasked with processing these applications for registrants and there will be less revenue collected from these licenses.

Any additional costs to the Office of Cannabis Policy within the Department of Administrative and Financial Services to adopt the changes in this bill related to defining "cannabis paraphernalia" are anticipated to be minor and can be absorbed within existing budgeted resources.