

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 83

S.P. 50

In Senate, January 4, 2023

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

(EMERGENCY)

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator HICKMAN of Kennebec.
Cosponsored by Speaker TALBOT ROSS of Portland and
Senator: President JACKSON of Aroostook.

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

3 **Whereas,** on October 7, 2022 the Department of Administrative and Financial
4 Services, Office of Cannabis Policy issued guidance stating that a medical use of cannabis
5 registrant or adult use cannabis licensee must obtain a retail tobacco license in order to sell
6 or give away certain products including electronic smoking devices, rolling papers,
7 prerolled cannabis cigarettes, pipes or liquids used in electronic smoking devices, whether
8 or not they contain nicotine; and

9 **Whereas,** according to the October 7, 2022 guidance, the penalty for selling these
10 products without a retail tobacco license may include criminal charges, imprisonment and
11 fines in excess of \$1,000 per violation; and

12 **Whereas,** enforcement of Maine's tobacco law is ongoing; and

13 **Whereas,** the Maine Medical Use of Cannabis Act authorizes a person to provide
14 products such as those listed in the October 7, 2022 guidance to a qualifying patient or
15 caregiver for purposes of the qualifying patient's medical use of cannabis; and

16 **Whereas,** the Cannabis Legalization Act authorizes a cannabis store to sell cannabis
17 paraphernalia pursuant to its license; and

18 **Whereas,** Maine's tax laws under the Maine Revised Statutes, Title 36, chapter 704
19 specifically exclude any product that contains cannabis or cannabis products from the
20 definition of tobacco products; and

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

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

26 **Sec. 1. 22 MRSA §1551, sub-§3,** as repealed and replaced by PL 2017, c. 308, §3,
27 is amended to read:

28 **3. Tobacco product.** "Tobacco product" means any product that is made from or
29 derived from tobacco, or that contains nicotine, that is intended for human consumption or
30 is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or
31 ingested by any other means, including, but not limited to, a cigarette, a cigar, a hookah,
32 pipe tobacco, chewing tobacco, snuff or snus. "Tobacco product" also means an electronic
33 smoking device and any component or accessory used in the consumption of a tobacco
34 product, such as filters, rolling papers, pipes and liquids used in electronic smoking devices,
35 whether or not they contain nicotine. "Tobacco product" does not include drugs, devices
36 or combination products authorized for sale by the United States Food and Drug
37 Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.
38 "Tobacco product" does not include cannabis paraphernalia as defined in section 2422,
39 subsection 17.

40 **Sec. 2. 22 MRSA §2422, sub-§17** is enacted to read:

