

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1647

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H.P. 1057

House of Representatives, April 12, 2023

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**An Act to Prohibit Discrimination Against Cannabis Establishment  
Owners and Employees and Cannabis Users**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R(t) B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BOYER of Poland.  
Cosponsored by Senator BRAKEY of Androscoggin and  
Representatives: ANDREWS of Paris, DANA of the Passamaquoddy Tribe, FAULKINGHAM  
of Winter Harbor, MILLIKEN of Blue Hill, WHITE of Guilford, WILLIAMS of Bar Harbor.

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

2 **Sec. 1. 28-B MRSA §114** is enacted to read:

3 **§114. Protections for authorized activity and cannabis users**

4 **1. Right of persons acting pursuant to this chapter.** Except as provided in subsection  
5 3, a person whose conduct is authorized under this chapter, solely for lawfully engaging in  
6 the authorized conduct, may not be denied any right or privilege by the State, an agency or  
7 department of the State including a regulatory agency or business or professional licensing  
8 board or bureau, a municipality or other political subdivision, business or employer,  
9 including:

10 A. Denying the person any right or privilege in employment;

11 B. Subjecting the person to arrest or prosecution, including being subject to a civil  
12 penalty;

13 C. Subjecting the person to disciplinary action, including denying, modifying,  
14 suspending or revoking the person's professional or business license;

15 D. Denying, modifying, suspending or revoking the person's driver's license, housing  
16 assistance, social services or any other benefit;

17 E. Being discriminated against by a school, employer or landlord in a manner  
18 prohibited against a qualifying patient or caregiver under Title 22, section 2430-C,  
19 subsection 3;

20 F. Denying the parental rights and responsibilities of a person in a manner prohibited  
21 under Title 22, section 2430-C, subsection 4 against a person acting in accordance with  
22 Title 22, chapter 558-C;

23 G. Determining the person unsuitable to receive an anatomical gift in a manner  
24 prohibited against a qualifying patient under Title 22, section 2430-C, subsection 5;

25 H. Seizing and retaining the cannabis of the person by a law enforcement officer as  
26 prohibited against a qualifying patient, caregiver, cannabis testing facility,  
27 manufacturing facility or registered dispensary under Title 22, section 2430-C,  
28 subsection 6; or

29 I. Denying any other right or privilege to which the person is otherwise entitled for the  
30 reason that the person does not possess or exhibit good moral character.

31 **2. Rights of persons who use cannabis as authorized pursuant to this chapter.**

32 Except as provided in subsection 3, a person who is 21 years of age or older who uses adult  
33 use cannabis or adult use cannabis products pursuant to this chapter, solely due to the  
34 presence of cannabinoids or cannabinoid metabolites in the urine, blood, saliva, breath, hair  
35 or any other tissue or fluid of the person, may not be denied any right or privilege by the  
36 State, an agency or department of the State including a regulatory agency or business or  
37 professional licensing board or bureau, a municipality or other political subdivision,  
38 business or employer, including:

39 A. Denying the person any right or privilege in employment;

40 B. Subjecting the person to arrest or prosecution, including being subject to a civil  
41 penalty;

- 1 C. Subjecting the person to disciplinary action, including denying, modifying,  
2 suspending or revoking the person's professional or business license;
- 3 D. Denying, modifying, suspending or revoking the person's driver's license, housing  
4 assistance, social services or any other benefit;
- 5 E. Being discriminated against by a school, employer or landlord in a manner  
6 prohibited against a qualifying patient or caregiver under Title 22, section 2430-C,  
7 subsection 3;
- 8 F. Denying the parental rights and responsibilities of a person in a manner prohibited  
9 under Title 22, section 2430-C, subsection 4 against a person acting in accordance with  
10 Title 22, chapter 558-C;
- 11 G. Determining the person unsuitable to receive an anatomical gift in a manner  
12 prohibited against a qualifying patient under Title 22, section 2430-C, subsection 5;
- 13 H. Seizing and retaining the cannabis of the person by a law enforcement officer as  
14 prohibited against a qualifying patient, caregiver, cannabis testing facility,  
15 manufacturing facility or registered dispensary under Title 22, section 2430-C,  
16 subsection 6; or
- 17 I. Denying any other right or privilege to which the person is otherwise entitled for the  
18 reason that the person does not possess or exhibit good moral character.

19 **3. Probable cause or reasonable suspicion.** Except as provided in this subsection, the  
20 following may not constitute in part or in whole probable cause or reasonable suspicion  
21 and may not be used as a basis to support any stop or search of a person or motor vehicle:

- 22 A. The odor of cannabis;
- 23 B. The odor of burnt cannabis;
- 24 C. The possession of or the suspicion of possession of cannabis or cannabis  
25 concentrate;
- 26 D. The presence of cash or currency in proximity to cannabis or cannabis concentrate;  
27 or
- 28 E. The planting, cultivating, harvesting, drying, processing or possessing of cultivated  
29 cannabis in accordance with this chapter.

30 Paragraph B does not apply when a law enforcement officer is investigating whether a  
31 person is hunting or operating a motor vehicle, watercraft, ATV or snowmobile while  
32 impaired by drugs or under the combined influence of drugs or of alcohol and any drug or  
33 drugs in violation of Title 29-A, chapter 23 or Title 12, chapter 911. During an investigation  
34 under this subsection, the odor of burnt cannabis may not constitute probable cause to  
35 search any area of a motor vehicle, watercraft, ATV or snowmobile that is not readily  
36 accessible to the operator and reasonably likely to contain evidence relevant to the  
37 operator's condition. For purposes of this paragraph, "ATV" has the same meaning as in  
38 Title 12, section 13001, subsection 3.

39 **4. Requirements for protection.** To receive protection under this section for conduct  
40 authorized under this chapter, a person must present upon request of a law enforcement  
41 officer a valid government-issued photographic identification card, or other acceptable  
42 photographic identification, demonstrating that the person is 21 years of age or older.

1           **5. Exceptions.** The provisions of this section do not apply to:  
2           A. Employment policies under section 112; or  
3           B. Except as provided in subsection 3, a violation or offense under Title 29-A, chapter  
4           23 or Title 12, chapter 911.

5           **6. Enforcement.** A person aggrieved by a violation of subsection 1, 2 or 3 may bring  
6           an action in either Superior Court or District Court for equitable relief, including an  
7           injunction.

8           **Sec. 2. 28-B MRSA §1505** is enacted to read:

9           **§1505. Protections for authorized activity and cannabis users**

10           **1. Right of persons acting pursuant to this chapter.** Except as provided in subsection  
11           3, a person whose conduct is authorized under this chapter, solely for lawfully engaging in  
12           the authorized conduct, may not be denied any right or privilege by the State, an agency or  
13           department of the State including a regulatory agency or business or professional licensing  
14           board or bureau, a municipality or other political subdivision, business or employer,  
15           including:

- 16           A. Denying the person any right or privilege in employment;
- 17           B. Subjecting the person to arrest or prosecution, including being subject to a civil  
18           penalty;
- 19           C. Subjecting the person to disciplinary action, including denying, modifying,  
20           suspending or revoking the person’s professional or business license;
- 21           D. Denying, modifying, suspending or revoking the person’s driver’s license, housing  
22           assistance, social services or any other benefit;
- 23           E. Being discriminated against by a school, employer or landlord in a manner  
24           prohibited against a qualifying patient or caregiver under Title 22, section 2430-C,  
25           subsection 3;
- 26           F. Denying the parental rights and responsibilities of a person in a manner prohibited  
27           under Title 22, section 2430-C, subsection 4 against a person acting in accordance with  
28           Title 22, chapter 558-C;
- 29           G. Determining the person unsuitable to receive an anatomical gift in a manner  
30           prohibited against a qualifying patient under Title 22, section 2430-C, subsection 5;
- 31           H. Seizing and retaining the cannabis of the person by a law enforcement officer as  
32           prohibited against a qualifying patient, caregiver, cannabis testing facility,  
33           manufacturing facility or registered dispensary under Title 22, section 2430-C,  
34           subsection 6; or
- 35           I. Denying any other right or privilege to which the person is otherwise entitled for the  
36           reason that the person does not possess or exhibit good moral character.

37           **2. Rights of persons who use cannabis as authorized pursuant to this chapter.**  
38           Except as provided in subsection 3, a person who is 21 years of age or older who uses adult  
39           use cannabis or adult use cannabis products pursuant to this chapter, solely due to the  
40           presence of cannabinoids or cannabinoid metabolites in the urine, blood, saliva, breath, hair  
41           or any other tissue or fluid of the person, may not be denied any right or privilege by the

1 State, an agency or department of the State including a regulatory agency or business or  
2 professional licensing board or bureau, a municipality or other political subdivision,  
3 business or employer, including:

4 A. Denying the person any right or privilege in employment;

5 B. Subjecting the person to arrest or prosecution, including being subject to a civil  
6 penalty;

7 C. Subjecting the person to disciplinary action, including denying, modifying,  
8 suspending or revoking the person's professional or business license;

9 D. Denying, modifying, suspending or revoking the person's driver's license, housing  
10 assistance, social services or any other benefit;

11 E. Being discriminated against by a school, employer or landlord in a manner  
12 prohibited against a qualifying patient or caregiver under Title 22, section 2430-C,  
13 subsection 3;

14 F. Denying the parental rights and responsibilities of a person in a manner prohibited  
15 under Title 22, section 2430-C, subsection 4 against a person acting in accordance with  
16 Title 22, chapter 558-C;

17 G. Determining the person unsuitable to receive an anatomical gift in a manner  
18 prohibited against a qualifying patient under Title 22, section 2430-C, subsection 5;

19 H. Seizing and retaining the cannabis of the person by a law enforcement officer as  
20 prohibited against a qualifying patient, caregiver, cannabis testing facility,  
21 manufacturing facility or registered dispensary under Title 22, section 2430-C,  
22 subsection 6; or

23 I. Denying any other right or privilege to which the person is otherwise entitled for the  
24 reason that the person does not possess or exhibit good moral character.

25 **3. Probable cause or reasonable suspicion.** Except as provided in this subsection, the  
26 following may not constitute in part or in whole probable cause or reasonable suspicion  
27 and may not be used as a basis to support any stop or search of a person or motor vehicle:

28 A. The odor of cannabis;

29 B. The odor of burnt cannabis;

30 C. The possession of or the suspicion of possession of cannabis or cannabis  
31 concentrate;

32 D. The presence of cash or currency in proximity to cannabis or cannabis concentrate;  
33 or

34 E. The planting, cultivating, harvesting, drying, processing or possessing of cultivated  
35 cannabis in accordance with this chapter.

36 Paragraph B does not apply when a law enforcement officer is investigating whether a  
37 person is hunting or operating a motor vehicle, watercraft, ATV or snowmobile while  
38 impaired by drugs or under the combined influence of drugs or of alcohol and any drug or  
39 drugs in violation of Title 29-A, chapter 23 or Title 12, chapter 911. During an investigation  
40 under this subsection, the odor of burnt cannabis may not constitute probable cause to  
41 search any area of a motor vehicle, watercraft, ATV or snowmobile that is not readily

1 accessible to the operator and reasonably likely to contain evidence relevant to the  
2 operator's condition. For purposes of this paragraph, "ATV" has the same meaning as in  
3 Title 12, section 13001, subsection 3.

4 **4. Requirements for protection.** To receive protection under this section for conduct  
5 authorized under this chapter, a person must present upon request of a law enforcement  
6 officer a valid government-issued photographic identification card, or other acceptable  
7 photographic identification, demonstrating that the person is 21 years of age or older.

8 **5. Exceptions.** The provisions of this section do not apply to:

9 A. Employment policies under section 112; or

10 B. Except as provided in subsection 3, a violation or offense under Title 29-A, chapter  
11 23 or Title 12, chapter 911.

12 **6. Enforcement.** A person aggrieved by a violation of subsection 1, 2 or 3 may bring  
13 an action in either Superior Court or District Court for equitable relief, including an  
14 injunction.

## 15 SUMMARY

16 This bill provides protections for a person engaged in authorized activities involving  
17 or using adult use cannabis or adult use cannabis products from being denied any right or  
18 privilege or being subject to arrest, prosecution or disciplinary action by a business or  
19 governmental entity, including regarding a driver's license or professional or business  
20 license, being discriminated against by a school, employer or landlord, being denied  
21 parental rights and responsibilities, being determined unsuitable for an anatomical gift,  
22 having cannabis seized or retained by a law enforcement officer or being denied any right  
23 or privilege by reason of not possessing or exhibiting good moral character, solely for  
24 engaging in authorized adult use cannabis or adult use cannabis products activities or for  
25 the presence of cannabinoids or cannabinoid metabolites in the person's system. This bill  
26 exempts from these provisions certain employment policies and violations of the laws  
27 prohibiting hunting or operating a motor vehicle, watercraft, ATV or snowmobile while  
28 under the influence.

29 The bill also prohibits using the odor of cannabis or burnt cannabis, the possession of  
30 cannabis or currency in proximity to cannabis or the planting, cultivating or processing of  
31 cannabis as probable cause or reasonable suspicion except, in some cases, during an  
32 investigation by a law enforcement officer of an operating under the influence offense.