

MAINE STATE LEGISLATURE

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Date 6/14/23

(Filing No S-328)

MINORITY
VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE
SENATE
131ST LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S P 673, L D 1686, "An Act to Eliminate Unconstitutional Restrictions on Access to Cannabis by Removing Certain Restrictions on Medical Use and Personal Use and to Recognize Cannabis and Hemp as Food Protected as a Right Under the Constitution of Maine"

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

'An Act to Eliminate Unconstitutional Restrictions on Access to Cannabis by Removing Certain Restrictions on Medical Use and Personal Use and to Recognize Cannabis and Hemp as Food Protected as a Right Under the Constitution of Maine and to Remove All Marijuana-related Provisions from the Maine Criminal Code'

Amend the bill by inserting after section 1 the following

'Sec. 2. 15 MRSA §3314, sub-§6, as amended by PL 2019, c 113, Pt C, §50, is further amended to read

6. Forfeiture of firearms. As part of every disposition in every proceeding under this code, every firearm that constitutes the basis for an adjudication for a juvenile crime that, if committed by an adult, would constitute a violation of section 393, Title 17-A, section 1105-A, subsection 1, paragraph C-1, Title 17-A, section 1105-B, subsection 1, paragraph C, Title 17-A, section 1105-C, subsection 1, paragraph C-1, ~~Title 17-A, section 1105-D, subsection 1, paragraph B-1,~~ or Title 17-A, section 1118-A, subsection 1, paragraph B and every firearm used by the juvenile or any accomplice during the course of conduct for which the juvenile has been adjudicated to have committed a juvenile crime that would have been forfeited pursuant to Title 17-A, section 1504 if the criminal conduct had been committed by an adult must be forfeited to the State and the juvenile court shall so order unless another person satisfies the court prior to the dispositional hearing and by a preponderance of the evidence that the other person had a right to possess the firearm, to the exclusion of the juvenile, at the time of the conduct that constitutes the juvenile crime Rules adopted by the Attorney General that govern the disposition of firearms forfeited pursuant to Title 17-A, section 1504 govern forfeitures under this subsection

COMMITTEE AMENDMENT

ROF A

- 1 **Sec. 3. 17-A MRSA §1102, sub-§4, ¶B**, as enacted by PL 1975, c 499, §1, is
2 repealed
- 3 **Sec. 4. 17-A MRSA §1103, sub-§1-A, ¶C**, as enacted by PL 2001, c 383, §115
4 and affected by §156, is repealed
- 5 **Sec. 5. 17-A MRSA §1103, sub-§1-A, ¶D**, as enacted by PL 2001, c 383, §115
6 and affected by §156, is repealed
- 7 **Sec. 6. 17-A MRSA §1103, sub-§1-A, ¶E**, as enacted by PL 2001, c 383, §115
8 and affected by §156, is repealed
- 9 **Sec. 7. 17-A MRSA §1103, sub-§1-A, ¶F**, as enacted by PL 2001, c 383, §115
10 and affected by §156, is repealed
- 11 **Sec. 8. 17-A MRSA §1103, sub-§3, ¶A**, as amended by PL 1997, c 481, §3, is
12 repealed
- 13 **Sec. 9. 17-A MRSA §1105-A, sub-§1, ¶A**, as enacted by PL 2001, c 383, §119
14 and affected by §156, is amended by repealing subparagraph (2)
- 15 **Sec. 10. 17-A MRSA §1105-A, sub-§1, ¶A**, as enacted by PL 2001, c 383, §119
16 and affected by §156, is amended by repealing subparagraph (4)
- 17 **Sec. 11. 17-A MRSA §1105-A, sub-§1, ¶B**, as amended by PL 2007, c 476, §39,
18 is further amended by repealing subparagraph (2)
- 19 **Sec. 12. 17-A MRSA §1105-A, sub-§1, ¶B**, as amended by PL 2007, c 476, §39,
20 is further amended by repealing subparagraph (4)
- 21 **Sec. 13. 17-A MRSA §1105-A, sub-§1, ¶C-1**, as enacted by PL 2001, c 667, Pt
22 D, §23 and affected by §36, is amended by repealing subparagraph (2)
- 23 **Sec. 14. 17-A MRSA §1105-A, sub-§1, ¶C-1**, as enacted by PL 2001, c 667, Pt
24 D, §23 and affected by §36, is amended by repealing subparagraph (4)
- 25 **Sec. 15. 17-A MRSA §1105-A, sub-§1, ¶E**, as amended by PL 2005, c 415, §2,
26 is further amended by repealing subparagraph (2)
- 27 **Sec. 16. 17-A MRSA §1105-A, sub-§1, ¶E**, as amended by PL 2005, c 415, §2,
28 is further amended by repealing subparagraph (4)
- 29 **Sec. 17. 17-A MRSA §1105-A, sub-§1, ¶F**, as enacted by PL 2001, c 383, §119
30 and affected by §156, is amended by repealing subparagraph (2)
- 31 **Sec. 18. 17-A MRSA §1105-A, sub-§1, ¶F**, as enacted by PL 2001, c 383, §119
32 and affected by §156, is amended by repealing subparagraph (4)
- 33 **Sec. 19. 17-A MRSA §1105-D**, as amended by PL 2019, c 12, Pt B, §6, is
34 repealed
- 35 **Sec. 20. 17-A MRSA §1106, sub-§3, ¶A**, as amended by PL 2009, c 67, §1, is
36 repealed
- 37 **Sec. 21. 17-A MRSA §1107-A, sub-§1, ¶F**, as amended by PL 2009, c 67, §2, is
38 further amended to read

COMMITTEE AMENDMENT

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F A schedule Z drug Violation of this paragraph is a Class E crime ~~unless the drug is marijuana, in which case a violation of this paragraph is~~

- ~~(1) For possession of over 2 1/2 ounces to 8 ounces of marijuana, a Class E crime,~~
- ~~(2) For possession of over 8 ounces to 16 ounces of marijuana, a Class D crime,~~
- ~~(3) For possession of over one pound to 20 pounds of marijuana, a Class C crime,~~
- ~~and~~
- ~~(4) For possession of over 20 pounds of marijuana, a Class B crime~~

Sec. 22. 17-A MRSA §1111-A, sub-§1, ¶G, as amended by PL 1981, c 531, §2, is repealed

Sec. 23. 17-A MRSA §1117, as amended by PL 2019, c 12, Pt B, §11, is repealed

Sec. 24. 17-A MRSA §1125, sub-§1, as enacted by PL 2019, c 113, Pt B, §16, is amended to read

1. Minimum term of imprisonment. Except as otherwise provided in subsections 2 and 3, for a person convicted of violating section 1105-A, 1105-B, 1105-C, ~~1105-D~~ or 1118-A the minimum term of imprisonment, which may not be suspended, is as follows

A When the sentencing class is Class A, the minimum term of imprisonment is 4 years,

B When the sentencing class is Class B, the minimum term of imprisonment is 2 years, and

C ~~With the exception of a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is marijuana, when~~ When the sentencing class is Class C, the minimum term of imprisonment is one year

Sec. 25. 17-A MRSA §1125, sub-§2, ¶A, as enacted by PL 2019, c 113, Pt B, §16, is amended by amending subparagraph (3) to read

- (3) Failure to impose a minimum unsuspended term of imprisonment under subsection 1 will not appreciably impair the effect of subsection 1 in deterring others from violating section 1105-A, 1105-B, 1105-C, ~~1105-D~~ or 1118-A, and

Sec. 26. 17-A MRSA §1126, sub-§1, as enacted by PL 2019, c 113, Pt B, §17, is amended to read

1. Fine based on value of scheduled drugs at time of offense As authorized by section 1706, subsection 3, if the State pleads and proves the value at the time of the commission of a crime of a scheduled drug that is the basis for a conviction under section 1103, 1105-A, 1105-B, 1105-C, ~~1105-D~~, 1106 or 1107-A, the convicted person may be sentenced to pay a fine in an amount up to the value, as pleaded and proved by the State, of that scheduled drug

Sec. 27. 17-A MRSA §1126, sub-§2, as amended by PL 2021, c 434, §9, is further amended to read

2. Mandatory minimum fine barring court finding exceptional circumstances. In addition to any other authorized sentencing alternative specified in section 1502, subsection 2 for individuals or section 1502, subsection 7 for organizations, the court shall impose a

RC 15

1 minimum fine of \$400, none of which may be suspended, except as provided in subsection
2 3, for an individual convicted of a crime under section 1103, 1104, 1105-A, 1105-B,
3 1105-C, ~~1105-D~~, 1106, 1107-A, 1108, 1109, 1111-A, subsection 4-A, 1116, ~~1117~~, or 1118

4 **Sec. 28. 17-A MRSA §1504, sub-§1, ¶A**, as enacted by PL 2019, c 113, Pt A,
5 §2, is amended by repealing subparagraph (5)

6 **Sec. 29. 17-A MRSA §1604, sub-§4**, as enacted by PL 2019, c 113, Pt A, §2, is
7 amended to read

8 **4. Mandatory minimum sentence of imprisonment for certain drug crimes.** For
9 an individual convicted of violating section 1105-A, 1105-B, 1105-C, ~~1105-D~~ or 1118-A,
10 except as otherwise provided in section 1125, subsections 2 and 3, the court shall impose a
11 minimum sentence of imprisonment, which may not be suspended, as provided in section
12 1125, subsection 1 '

13 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
14 number to read consecutively

15 **SUMMARY**

16 This amendment, which is the minority report of the committee, incorporates into the
17 bill those sections of Legislative Document 1789 that remove marijuana from the Maine
18 Criminal Code by doing the following removing marijuana being listed as a scheduled
19 drug, eliminating the crime of unlawful trafficking in marijuana, eliminating the crime of
20 aggravated trafficking of marijuana, eliminating the crime of aggravated cultivating of
21 marijuana, removing the permissible inference under the Maine Rules of Evidence, Rule
22 303 that a person who intentionally or knowingly possesses a certain quantity, state or
23 concentration of marijuana is unlawfully furnishing marijuana, eliminating the crime of
24 unlawful possession of marijuana, removing drug paraphernalia related to marijuana from
25 the definition of "drug paraphernalia", eliminating the crime of cultivating marijuana, and
26 eliminating any mandatory minimum term of imprisonment for marijuana-related drug
27 offenses

28 **FISCAL NOTE REQUIRED**

29 (See attached)



131st MAINE LEGISLATURE

LD 1686

LR 1720(02)

An Act to Eliminate Unconstitutional Restrictions on Access to Cannabis by Removing Certain Restrictions on Medical Use and Personal Use and to Recognize Cannabis and Hemp as Food Protected as a Right Under the Constitution of Maine

Fiscal Note for Bill as Amended by Committee Amendment "A" (S 328)

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

Current biennium savings - General Fund (Corrections)
 Potential current biennium cost increase - General Fund (Attorney General)
 Potential current biennium revenue decrease - General Fund
 Potential current biennium revenue decrease - Other Special Revenue Funds

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Revenue				
Other Special Revenue Funds	\$0	(\$10,000)	(\$10,000)	(\$10,000)

Correctional and Judicial Impact Statements

Eliminates Class A, B, C, D and E crimes by removing marijuana related provisions from the Maine Criminal Code
 The current average cost of incarcerating one individual for a single year is \$55,203

There may be a minor reduction of workload associated with the minimal number of cases that will no longer be filed in the court system. Reductions in the collection of fines will decrease General Fund or other dedicated revenue by minor amounts.

Fiscal Detail and Notes

This bill removes restrictions on the number of cannabis plants or seedlings a person may transfer or furnish without remuneration, the number of cannabis plants and seedlings a person may possess, cultivate, or transport, and the amount of cannabis produced by cannabis plants and seedlings permitted at a person's place of residence or at the location where the cannabis was cultivated. It also removes limitations on the amount of cannabis a qualifying patient may possess, cultivate or harvest for that patient's medical use under the Maine Medical Use of Cannabis Act.

By allowing individuals to possess more cannabis for personal use, they may opt to purchase fewer cannabis products from retail stores. That could decrease revenue to the General Fund and Other Special Revenue Funds due to the reduction in sales and excise taxes. No estimate of the reduction is made at this time.

CA(SB28)

Provisions of this bill regarding hemp could result in the State's hemp program becoming non-compliant with federal laws governing hemp. The Department of Agriculture, Conservation and Forestry estimates a loss of roughly 20% of the current hemp acreage if the State's program is no longer federally compliant. This would reduce Other Special Revenue Funds revenue by \$10,000 annually beginning in fiscal year 2024-25.

Provisions of this bill may conflict with current federal guidance on how individual states approach regulation of medical cannabis programs. This may result in additional enforcement actions by the federal government and litigation costs to the Office of the Attorney General.