

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2019

C. Any municipal or quasi-municipal transmission and distribution utility located in the State;

D. The portion of any municipal or quasi-municipal entity located in the State providing transmission and distribution services; and

E. Any transmission and distribution utility wholly owned by a municipality located in the State.

Sec. 3. 35-A MRSA §6101, sub-§1-A, as enacted by PL 1987, c. 490, Pt. B, §11, is repealed and the following enacted in its place:

1-A. Consumer-owned water utility. Consumer-owned water utility" means any water utility which is wholly owned by its consumers, including its consumers served in the State. "Consumer-owned water utility" includes but is not limited to:

A. Any municipal or quasi-municipal water district or corporation located in the State;

B. Any municipal water department located in the State; or

C. The water portion of any utility wholly owned by a municipality or district located in the State.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 17, 2019.

CHAPTER 312

S.P. 577 - L.D. 1735

An Act To Clarify the Pathway for a Registered Dispensary under the Maine Medical Use of Marijuana Act To Become a For-profit Entity

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

Whereas, Public Law 2017, chapter 452 became law on December 13, 2018 and repealed the requirement that registered medical marijuana dispensaries be nonprofit entities; and

Whereas, Public Law 2017, chapter 452 authorizes the State to issue 6 additional dispensary registration certificates without the requirement that these dispensaries be established as nonprofit entities; and

Whereas, Public Law 2017, chapter 452 does not provide a clear pathway for existing registered medical marijuana dispensaries to reorganize as for-profit entities under Maine law; and

Whereas, it is imperative that the law be immediately amended to provide a pathway for an existing registered medical marijuana dispensary to qualify to operate under the law as amended by Public Law 2017, chapter 452; 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,

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

Sec. 1. 22 MRSA §2428, sub-§13 is enacted to read:

13. Reorganization to for-profit status. Any of the 8 registered dispensaries that were issued registration certificates as of April 1, 2018 and that are operating as nonprofit entities may convert to a for-profit entity pursuant to this subsection. A registered dispensary established pursuant to subsection 11-A, paragraph A that was not issued a dispensary registration certificate before April 1, 2018 and operates as a nonprofit entity may not convert to a for-profit entity.

A. A registered dispensary that is operating as a nonprofit entity may enter into any of the following transactions to reorganize the registered dispensary as a for-profit entity:

(1) A registered dispensary operating as a nonprofit entity may merge with and into a business corporation formed pursuant to Title 13-C;

(2) A business corporation formed pursuant to the laws of this State may purchase substantially all of the assets of a registered dispensary operating as a nonprofit entity; and

(3) Notwithstanding any provision of the law to the contrary in this Title, Title 13-B or Title 13-C, a registered dispensary operating as a nonprofit entity is entitled to convert into a domestic business corporation by adopting a plan of entity conversion in accordance with Title 13-C, section 953 that is approved by a vote of 2/3 of the members of the board of directors of the nonprofit entity at a meeting duly called for that purpose or by unanimous written consent. A plan of entity conversion adopted pursuant to this subparagraph must be signed and submitted to the Secretary of State on a form prescribed by the Secretary of State, must be executed and filed in the manner prescribed in Title 13-C, section 955 and is subject to Title 13-C, section 957. If the Secretary of State finds that such filings com-

ply with this subparagraph, the Secretary of State shall accept the filings.

B. Notwithstanding Title 13-B, section 718, and notwithstanding any provision to the contrary in the articles of incorporation or the bylaws of a registered dispensary operating as a nonprofit entity, there exists no conflict of interest nor violation of fiduciary duty for the directors of a registered dispensary operating as a nonprofit entity for the limited purposes of:

- (1) Approving a transaction in order to reorganize pursuant to this section as set forth in paragraph A, subparagraph (1), (2) or (3);
- (2) Issuing any shares, membership interests or other securities, obligations, rights to acquire interests or other securities, cash or other property in order to reorganize pursuant to this section; or
- (3) Designating the directors or a business corporation in which the directors hold interests as members of a nonprofit entity that previously had no members in order to reorganize pursuant to this section.

C. The patients of a registered dispensary that is operating as a nonprofit entity may not be deemed members entitled to vote under Title 13-B, section 604, nor may such patients be deemed members for purposes of a merger, purchase or conversion reorganization transaction pursuant to this subsection.

D. If a registered dispensary reorganizes as a for-profit entity pursuant to this section and subsequently sells or transfers its interest in the reorganized registered dispensary, the registered dispensary or the dispensary's successor in interest, shall pay to the Medical Use of Marijuana Fund established under section 2430 a percentage of the value of the sale or transfer of interest, as determined by an independent appraisal at the time of the sale or transfer of interest, in accordance with this paragraph:

- (1) If the sale or transfer of interest is completed in the first year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 10% of the value of the sale or transfer of interest;
- (2) If the sale or transfer of interest is completed in the 2nd year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 7.5% of the value of the sale or transfer of interest;
- (3) If the sale or transfer of interest is completed in the 3rd year after the reorganization, the amount paid to the Medical Use of Mari-

juana Fund must equal 5% of the value of the sale or transfer of interest; and

(4) If the sale or transfer of interest is completed in the 4th year after the reorganization, the amount paid to the Medical Use of Marijuana Fund must equal 2.5% of the value of the sale or transfer of interest.

The cost of an appraisal required under this paragraph must be paid from the Medical Use of Marijuana Fund.

E. A registered dispensary that reorganizes as a for-profit entity pursuant to this section, or the dispensary's successor in interest if the dispensary sells or transfers its interest in the reorganized registered dispensary, shall demonstrate to the department as a condition of registration pursuant to section 2425 that the registered dispensary or the dispensary's successor in interest has provided discounts in an amount that is not less than 2% of gross sales of the registered dispensary in the previous year to qualifying patients who:

- (1) Are receiving hospice care;
- (2) Are 65 years of age or older;
- (3) Have a family income that is equal to or below 400% of the nonfarm income official poverty line; or
- (4) Are veterans of the United States Armed Forces.

The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 15, 2023 regarding the discounts provided by registered dispensaries or the dispensary's successor in interest pursuant to this paragraph. A registered dispensary subject to this paragraph shall provide to the commissioner an annual accounting demonstrating compliance with this paragraph.

This paragraph is repealed July 1, 2023.

F. A registered dispensary subject to paragraph D shall provide to the Attorney General the independent appraisal required in paragraph D.

G. Except as provided in paragraph F, a transaction pursuant to this subsection does not require any approval or notice under the provisions of Title 5, chapter 9.

H. The registration status of a registered dispensary that has completed a reorganization transaction pursuant to this subsection is governed by subsection 11-A, paragraph B.

Sec. 2. 22 MRSA §2430, sub-§2, ¶¶D and E, as enacted by PL 2009, c. 631, §45 and affected by §51, are amended to read:

D. All money from any other source, whether public or private, designated for deposit into or credited to the fund; ~~and~~

E. Interest earned or other investment income on balances in the fund; ~~and~~

Sec. 3. 22 MRSA §2430, sub-§2, ¶F is enacted to read:

F. All money received as a result of a reorganization of a registered dispensary operating as a non-profit entity to a for-profit entity pursuant to section 2428, subsection 13, paragraph D.

Sec. 4. Secretary of State to develop form for reorganization of registered dispensary to a for-profit entity. No later than August 1, 2019, the Secretary of State shall develop a form for a registered dispensary reorganizing as a for-profit entity pursuant to the Maine Revised Statutes, Title 22, section 2428, subsection 13 to submit a plan of entity conversion to the Secretary of State in accordance with Title 22, section 2428, subsection 13, paragraph A, subparagraph (3).

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 17, 2019.

CHAPTER 313

H.P. 1251 - L.D. 1757

An Act To Clarify Certain Standards for the Efficiency Maine Trust's Triennial Plan

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

Whereas, it is necessary that this legislation take effect prior to the start of the next fiscal year for the Efficiency Maine Trust to remove uncertainty and prevent market disruption for Maine contractors, vendors and customers; 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,

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

Sec. 1. 30-A MRSA §4706, sub-§2, ¶D, as amended by PL 1993, c. 175, §3, is further amended to read:

D. In any litigation or proceeding in which an authority is a party, the authority may introduce evidence based on any information that is deemed confidential and is within the control or custody of the authority; ~~and~~

Sec. 2. 30-A MRSA §4706, sub-§2, ¶E, as enacted by PL 1993, c. 175, §4, is amended to read:

E. Any person or agency directly involved in the administration or auditing of weatherization, energy conservation or fuel assistance programs of the Maine State Housing Authority and any agency of the State with a legitimate reason to know must be given access to those records described in subsection 1, paragraphs C and D; ~~and~~

Sec. 3. 30-A MRSA §4706, sub-§2, ¶F is enacted to read:

F. The Maine State Housing Authority may provide records to the Efficiency Maine Trust pursuant to Title 35-A, section 10104, subsection 4, paragraph A, subparagraph (2).

Sec. 4. 35-A MRSA §10104, sub-§3, as amended by PL 2013, c. 369, Pt. A, §9, is further amended to read:

3. Performance metrics. The trust shall develop quantifiable ~~measures of performance metrics~~ for all programs it administers and to which it will hold accountable all recipients of funding from the trust and recipients of funds used to deliver energy and energy efficiency and weatherization programs administered or funded by the trust. Such ~~measures performance metrics~~ may include, but are not limited to, reduced energy consumption, increased use of alternative energy resources, reduced heating costs, reduced capacity demand for natural gas, electricity and fossil fuels, reduced carbon dioxide emissions, program and overhead costs and cost-effectiveness, the number of new jobs created by the award of trust funds, the number of energy efficiency trainings or certification courses completed and the amount of sales generated.

Sec. 5. 35-A MRSA §10104, sub-§4, as amended by PL 2013, c. 369, Pt. A, §§10 to 13, is further amended to read:

4. Triennial plan. The board shall vote on a detailed, triennial, ~~energy efficiency, alternative energy resources and conservation~~ plan that includes the quantifiable ~~measures of performance metrics~~ developed under subsection 3 and make a full report of the vote to the commission in accordance with this subsection. The triennial plan must provide integrated planning, program design and implementation strategies for all energy efficiency, alternative energy resources and conservation programs administered by the trust, including but not limited to the electric efficiency and conservation programs under section 10110, the natural gas efficiency and conservation programs under