

# 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.**

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**Augusta, Maine**  
**2019**

**CHAPTER 491**  
**H.P. 524 - L.D. 719**

**An Act Regarding Adult Use  
Marijuana**

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

**Sec. 1. 22 MRSA §2158-B** is enacted to read:

**§2158-B. Food, food additives and food products containing adult use marijuana not adulterated**

Notwithstanding any provision of law to the contrary, food, food additives or food products that contain adult use marijuana are not considered to be adulterated under this subchapter based solely on the inclusion of adult use marijuana. For the purposes of this section, "adult use marijuana" has the same meaning as in Title 28-B, section 102, subsection 1.

**Sec. 2. 28-B MRSA §205, sub-§4**, as amended by PL 2019, c. 231, Pt. B, §1, is further amended to read:

**4. Issuance of active license upon certification of local authorization and payment of applicable license fee.** ~~The~~ Except as otherwise provided in this subsection, the department shall issue an active license to an applicant that has been issued a conditional license pursuant to subsection 3 and that meets all applicable requirements of this subsection. Prior to issuance of an active license pursuant to this subsection, the department shall require an applicant that has been issued a conditional license to submit information necessary for the department to determine that the applicant continues to meet all applicable requirements for conditional licensure under this subchapter. The department may refuse to issue an active license to an applicant if the department determines that the applicant no longer meets all applicable requirements for conditional licensure under this subchapter.

A. Within 10 days of receiving certification of local authorization from a municipality as required by section 402, subsection 3, paragraph B or, in the case of a marijuana establishment to be located in the unorganized and deorganized areas, from the Maine Land Use Planning Commission as required by section 403, subsection 3, paragraphs B and C, the department shall notify the applicant that certification of local authorization has been confirmed and that, in order for the department to issue an active license, the applicant must:

- (1) Pay the applicable license fee required pursuant to section 207;
- (2) Submit a facility plan that specifies the location, size and layout of the marijuana es-

tablishment within the municipality or, in the case of a marijuana establishment to be located in the unorganized and deorganized areas, within the town, plantation or township in which the marijuana establishment will be located;

(3) If the application is for a license to operate a cultivation facility, submit updated operating and cultivation plans as required under section 302 based upon the actual premises to be licensed, except that, if no changes to the original operating and cultivation plans submitted by the applicant are necessary based upon the actual premises to be licensed, then the applicant may satisfy this requirement by resubmitting the original operating and cultivation plans and noting on those plans that no changes are necessary;

(4) If the application is for any license except a license to operate a testing facility, register with the State Tax Assessor pursuant to Title 36, section 1754-B to collect and remit the sales tax on the sale of adult use marijuana and adult use marijuana products imposed under Title 36, section 1811; and

(5) If the application is for a license to operate a cultivation facility, register with the State Tax Assessor pursuant to Title 36, section 4922 to collect and remit the excise tax on the sale of adult use marijuana imposed under Title 36, chapter 723.

B. The department shall prepare and furnish to applicants, municipalities and the Maine Land Use Planning Commission a certification form by which the municipality may certify to the department that the applicant has obtained local authorization as required by section 402, subsection 3, paragraph B or, in the case of a marijuana establishment to be located in the unorganized and deorganized areas, the Maine Land Use Planning Commission may certify to the department that the applicant has obtained local authorization as required by section 403, subsection 3, paragraphs B and C.

C. Upon receipt of payment of the applicable license fee and any other documentation required under paragraph A, the department shall issue an active license to the applicant. The license must specify the date of issuance of the license, the period of licensure, the date of expiration of the license, the name of the licensee and the address of the licensed premises.

**Sec. 3. 28-B MRSA §503, sub-§10**, as enacted by PL 2017, c. 409, Pt. A, §6, is amended to read:

**10. Rules.** The department shall adopt rules regarding the provisional licensure, licensure, certifica-

tion and accreditation of testing facilities and the testing of marijuana and marijuana products by testing facilities pursuant to this chapter, including, but not limited to, rules establishing acceptable testing and research practices for testing facilities, including, but not limited to, provisions relating to testing practices, methods and standards; remediation and retesting procedures; quality control analysis; equipment certification and calibration; chemical identification; testing facility record-keeping, documentation and business practices; disposal of used, unused and waste marijuana and marijuana products; and reporting of test results. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 4. 28-B MRSA §510**, as enacted by PL 2017, c. 409, Pt. A, §6, is amended to read:

**§510. Limited access areas**

~~A Except as provided in subsection 1, a person may not enter or remain in any limited access area unless the person displays an individual identification card issued by the department pursuant to section 106. A licensee shall ensure that all areas of ingress and egress to limited access areas within its licensed premises are conspicuously marked and that a person is not allowed to enter or remain in any limited access area without displaying the person's individual identification card issued by the department pursuant to section 106.~~

1. Contractors. A licensee may allow a person to enter or remain in any limited access area without displaying an individual identification card if the person is a contractor of the licensee, including, but not limited to, an electrician, a plumber, an engineer or an alarm technician, whose scope of work will not involve the handling of marijuana or marijuana products; the person signs a visitor entry log provided and maintained by the licensee and is issued a visitor identification badge by the licensee; and, if the person is working in a limited access area with immediate access to marijuana or marijuana products, the person is supervised at all times by the licensee or an employee of the licensee.

2. Licensee compliance. A licensee shall ensure that all areas of ingress to and egress from limited access areas within its licensed premises are conspicuously marked and that a person is not allowed to enter or remain in any limited access area without displaying the person's individual identification card issued by the department pursuant to section 106.

**Sec. 5. 28-B MRSA §703, sub-§1, ¶D**, as enacted by PL 2017, c. 409, Pt. A, §6, is amended to read:

D. Must have a universal symbol stamped or embossed on each serving of the product, except that the department may determine by rule that, for a

particular type of product, such stamping or embossing is impracticable and is not required;

**Sec. 6. 28-B MRSA §803-A** is enacted to read:

**§803-A. Administrative holds**

In accordance with the provisions of this section, the department may impose an administrative hold on a licensee if, as a result of an inspection or investigation of the licensee by the department or a criminal justice agency, the department determines there are reasonable grounds to believe the licensee or an agent or employee of the licensee has committed or is committing a violation of the provisions of this chapter, the rules adopted pursuant to this chapter or the terms, conditions or provisions of the licensee's license.

1. Notice. The department shall provide to a licensee subject to an administrative hold notice of the imposition of that hold, which must:

A. Include a concise statement of the basis for the administrative hold;

B. Detail the marijuana, marijuana products or marijuana plants subject to the administrative hold;

C. Describe any operational restrictions to be placed on the licensee's license during the duration of the administrative hold; and

D. Indicate actions that must be taken by the licensee as a result of the administrative hold.

An administrative hold takes effect at the time that the notice under this subsection is provided by the department to the licensee.

2. Licensee actions. A licensee subject to an administrative hold must physically segregate in a limited access area any marijuana, marijuana products or marijuana plants subject to the hold, as detailed in the notice under subsection 1, from any other marijuana, marijuana products or marijuana plants not subject to the hold. For the duration of the administrative hold, the licensee may not sell, give away, transfer, transport, dispose of or destroy any marijuana, marijuana products or marijuana plants subject to the hold, but may, as applicable, cultivate, harvest, manufacture or otherwise maintain the marijuana, marijuana products or marijuana plants subject to the hold unless specifically restricted by the department from engaging in such activities pursuant to subsection 1, paragraph C.

3. Operational responsibilities and restrictions. A licensee subject to an administrative hold shall, for the duration of the hold, maintain the licensee's licensed premises and otherwise continue to operate the licensee's licensed marijuana establishment in accordance with the provisions of this chapter, the rules adopted pursuant to this chapter and the terms, condi-

tions or provisions of the licensee's license and the provisions of the administrative hold. Except as specifically restricted by the department pursuant to a notice under subsection 1, the licensee may, for the duration of the administrative hold and as applicable to the licensee's license type, cultivate, manufacture, test or sell any marijuana, marijuana products or marijuana plants not subject to the administrative hold.

**4. Termination; duration.** The department may terminate an administrative hold at any time following the imposition of the hold, except that a hold under this section may not be imposed for a period exceeding 30 consecutive days from the date notice is provided to the licensee in accordance with subsection 1. Notice of termination of an administrative hold must be provided by the department to the licensee subject to the hold.

**5. Department action; administrative hold not required prior to imposition of penalty.** Subsequent to the termination of an administrative hold under subsection 4, the department, in accordance with the applicable provisions of this subchapter and the rules adopted pursuant to this subchapter, may impose a monetary penalty on the licensee that was subject to the hold or suspend or revoke the licensee's license for a violation of the provisions of this chapter, the rules adopted pursuant to this chapter or the terms, conditions or provisions of the licensee's license.

The department is not required to impose an administrative hold on a licensee prior to imposing a monetary penalty on a licensee or suspending or revoking the licensee's license in accordance with the applicable provisions of this subchapter and the rules adopted pursuant to this subchapter for a violation of the provisions of this chapter, the rules adopted pursuant to this chapter or the terms, conditions or provisions of the licensee's license.

**Sec. 7. 28-B MRSA §804**, as enacted by PL 2017, c. 409, Pt. A, §6, is amended to read:

**§804. Rules**

The department shall adopt rules governing the imposition of administrative holds, monetary penalties, suspensions and revocations under this subchapter, which must include, but are not limited to, provisions relating to notice and conduct of hearings consistent with the Maine Administrative Procedure Act and provisions relating to the disposition of unauthorized marijuana and marijuana products of a licensee.

**Sec. 8. Department of Administrative and Financial Services, office of marijuana policy; approval of final adoption.** Final adoption of Chapter 1: Adult Use Marijuana Program, a provisionally adopted major substantive rule of the Department of Administrative and Financial Services, office of marijuana policy that was submitted to the Legislature for review pursuant to the Maine Revised Statutes,

Title 5, chapter 375, subchapter 2-A outside the legislative rule acceptance period, is authorized only if the following changes are made:

1. The rule must be amended in the section labeled "General" to:

A. Clarify in the first paragraph of that section that the rule establishes the requirements for licensure as a marijuana establishment, including the fees, application and licensing processes and requirements for the cultivation, manufacture, testing and sale of adult use marijuana and adult use marijuana products; that the activities described in the rule may be considered a violation of federal law; that persons cultivating, manufacturing, testing, selling, purchasing or otherwise receiving adult use marijuana or adult use marijuana products may be subject to federal sanctions for what may otherwise be considered authorized conduct in the State and that compliance with the rule does not exempt licensees, their employees or customers from possible federal prosecution; and that the department is not responsible or liable for the actions of licensed marijuana establishments under the rule; and

B. Delete the 2nd, 3rd, 4th and 5th paragraphs of that section regarding the availability and location of copies of the Code of Federal Regulations, the Maine Revised Statutes and the Code of Maine Rules;

2. The rule must be amended in section 1.1 to clarify that the department, acting through its office of marijuana policy, has developed the following rule in accordance with the statutory authority provided in Title 28-B, section 104 for the purpose of implementing, administering and enforcing the provisions of Title 28-B, chapter 1;

3. The rule must be amended, as necessary, in sections 1.3(1), 2.4.7, 2.4.9(B)(2), 12.1.3, 12.2.2(B)(1) and 12.2.3(B)(15) and any other relevant sections to substitute for the broad reference to the Maine Revised Statutes a reference to Title 28-B specifically;

4. The rule must be amended in section 1.3(4) to delete the definition for "age restricted retail area." The rule must be amended, as necessary, in sections 2.2.1(C)(6), 2.4.7(A), 3.2, 3.3.4(A), 3.4.1(C)(5), 3.6.4(E) and 3.9.4(A) and any other relevant sections to incorporate that deletion and to otherwise provide that, consistent with Title 28-B, section 507, the entry of persons under 21 years of age into the licensed premises of a marijuana establishment is prohibited;

5. The rule must be amended in sections 1.3(5), 1.3(14) and 1.3(58) to delete definitions for "analytical batch," "commissioner" and "nursery plant canopy";

6. The rule must be amended in sections 1.3(16), 1.3(33), 2.3.1(D)(1) and 12.1.3 and any other relevant

sections to delete references to the phrase "the rules adopted pursuant to this chapter." The rule must be amended as necessary and where appropriate to substitute for the term "this chapter" the term "this rule";

7. The rule must be amended in section 1.3(29) to define the term "inherently hazardous substance," consistent with the statutory definition in Title 28-B, section 102, subsection 20, rather than the term "inherently hazardous materials." The rule must be amended in sections 2.4.9(D) and 2.6.5(A)(1) and any other relevant sections to incorporate that amended definition;

8. The rule must be amended, as necessary, in sections 1.3(35), 2.7.1 and 3.2.3 and any other relevant sections to clarify that, consistent with Title 28-B, section 510, entry into limited access areas is authorized only for persons displaying an individual identification card and for contractors of a licensee and is not authorized for any other persons;

9. The rule must be amended in sections 1.3(37), 2.6.5(A)(3)(a), 3.5.1(C)(3) and 12.2.2(B)(1) and any other relevant sections to reference the Maine Land Use Planning Commission;

10. The rule must be amended, as appropriate, in sections 1.3(40), 3.8.2(A)(1), 3.8.2(B) and 3.8.5(C)(2) and any other relevant sections to substitute for the term "cannabis" the term "marijuana";

11. The rule must be amended in sections 1.3(47) and 1.3(83) to delete definitions for "marijuana items" and "usable marijuana." The rule must be amended, as necessary, in sections 1.3(28), 1.3(65), 3.4.1(E), 3.6.2(D), 3.6.6(E), 3.9.3, 3.9.5, 4.2.2, 4.2.4(B), 5.1(A), 5.2, 8.1, 11.1.1, 11.1.2, 12.2.3(B)(6), 12.5(D) and 12.7(B) and any other relevant sections to substitute for those deleted terms the terms "marijuana," "marijuana concentrate" and "marijuana products," as appropriate, and in a manner consistent with the definitions of those terms in sections 1.3(41), 1.3(42) and 1.3(49);

12. The rule must be amended in section 1.3(51) to define "marijuana trim," consistent with the statutory definition in Title 28-B, section 102, subsection 35, to mean any part of a marijuana plant, whether processed or unprocessed, that is not marijuana flower or a marijuana seed;

13. The rule must be amended in section 1.3(55) to delete the definition for "minor," and the rule must be amended, as necessary, in sections 3.8.2(A), 3.9.3(E), 5.2(A)(1), 5.2(B)(5), 12.2.2(B)(7) and 12.2.3(B)(8) and any other relevant sections to substitute the terms "person under 21 years of age" or "persons under 21 years of age" as appropriate;

14. The rule must be amended in sections 1.3(60), 1.3(61) and 1.3(80) to delete definitions for "other interested parties," "party of control" and "true party of interest." The rule must be amended, as nec-

essary and appropriate, in sections 2.4.2, 2.4.3, 2.5.1, 2.6.5(A)(7), 2.7.2(B), 2.8.3(B), 2.10, 3.1, 12.1.2(D), 12.3.2(A), 12.3.4(A) and 12.3.5(C)(3) and any other relevant sections to substitute for those deleted terms the statutory terminology in Title 28-B, chapter 1, subchapter 2 regarding the characterization of ownership interests, to incorporate the statutory application of the general licensing criteria in Title 28-B, section 202 to the ownership interests in a license, to incorporate the statutory requirements in Title 28-B, section 202 regarding the disclosure of direct and indirect financial interests in a license and to otherwise amend the rule consistent with the characterization of ownership interests in a license in Title 28-B, chapter 1, subchapter 2 and the application of the provisions of Title 28-B, chapter 1, subchapter 2 to those ownership interests;

15. The rule must be amended in section 1.3(63) to define "plant canopy," consistent with the statutory definition in Title 28-B, section 102, subsection 41, to mean the total surface area within the licensed premises of a cultivation facility that is authorized by the department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants;

16. The rule must be amended in section 1.3(64) to define "premises" to mean the designated area within a structure or structures and land specified in a license application that is owned, leased or otherwise held under the control of the applicant or licensee where conduct related to the cultivation, manufacture, testing or sale of adult use marijuana and adult use marijuana products occurs. The premises must be a contiguous area and may be occupied by only one marijuana establishment unless otherwise permitted by statute or this rule, except that nothing in this definition may be construed to prohibit the siting of multiple marijuana establishments in the same building or property as long as each marijuana establishment operates in a space physically distinct from any other marijuana establishment;

17. The rule must be amended in 1.3(65) to delete the definition for "process," and the rule must be amended, as necessary, in sections 1.3(35), 2.4.8(B), 2.7.1(A)(1), 2.7.1(C), 3.3.1, 3.3.4, 10, 11.3.2(A)(1),

12.6.1(C) and 12.7(A)(5) and any other relevant sections to substitute the term "cultivation," as appropriate, for the term "process";

18. The rule must be amended in section 1.3(69) to define "provisional license" to mean a license issued by the department pursuant to Title 28-B, section 503, subsection 2, paragraph B, subparagraph (2) that authorizes testing of marijuana and marijuana products by a testing facility that has met all requirements for an active license under this rule and that has applied for but not yet obtained certification, registration or accreditation from an approved organization. The rule must be amended, as necessary, in any other relevant sections to ensure correct use of that defined term;

19. The rule must be amended in section 1.3(70)(a) to substitute for the phrase "This paragraph is repealed effective June 1, 2021" the phrase "This requirement does not apply after May 31, 2021";

20. The rule must be amended in section 1.3 to:

A. Define "certificate of analysis" consistent with the use of that term in sections 3.8.2(F), 3.9.3(Q) and 11;

B. Define "qualifying patient," consistent with the statutory definition in Title 28-B, section 102, subsection 45, to mean a person who possesses a valid certification for the medical use of marijuana pursuant to Title 22, section 2423-B. The rule must be amended, as necessary, in any relevant sections to ensure the correct use of that defined term;

C. Define "registered dispensary," consistent with the statutory definition in Title 28-B, section 102, subsection 46, as having the same meaning as in Title 22, section 2422, subsection 6. The rule must be amended, as necessary, in sections 2.4.4(D), 2.4.8 and 2.4.9 and any other relevant sections to ensure the correct use of that defined term;

D. Define "registered caregiver," consistent with the statutory definition in Title 28-B, section 102, subsection 47, as having the same meaning as in Title 22, section 2422, subsection 11. The rule must be amended, as necessary, in sections 2.4.4(D), 2.4.8 and 2.4.9 and any other relevant sections to ensure the correct use of that defined term; and

E. Define "sample," consistent with the statutory definition in Title 28-B, section 102, subsection 50, to mean:

(1) An amount of marijuana or an amount of a marijuana product provided to a testing facility by a marijuana establishment or other person for testing or research and development purposes in accordance with Title 28-B, chapter 1, subchapter 6;

(2) An amount of adult use marijuana or an amount of an adult use marijuana product collected from a licensee by the department for the purposes of testing the marijuana or marijuana product for product quality control purposes pursuant to Title 28-B, section 512, subsection 2;

(3) An amount of adult use marijuana provided by a cultivation facility to another licensee for business or marketing purposes pursuant to Title 28-B, section 501, subsection 8; or

(4) An amount of adult use marijuana or an amount of an adult use marijuana product provided to another licensee by a products manufacturing facility for business or marketing purposes pursuant to Title 28-B, section 502, subsection 6.

The rule must be amended, as necessary, in any relevant sections to ensure the correct use of that defined term;

21. The rule must be amended in sections 2.1.1, 2.2, 2.4, 3.3.1, 3.9.5, 4.1 and 13 and any other relevant sections to describe "types" of licenses rather than "classes" of licenses;

22. The rule must be amended to delete section 2.1.2 and to amend, as necessary and appropriate, any other sections affected by that deletion;

23. The rule must be amended, as necessary, in sections 2.2.1(C)(7) and 3.9.1(A)(1)(b) to clarify that a nursery cultivation facility, consistent with Title 28-B, section 501, subsection 3, paragraph D, may sell to consumers only immature marijuana plants, seedlings, marijuana seeds and agricultural or gardening supplies relating to the cultivation of marijuana;

24. The rule must be amended, as necessary, in section 2.2.3 and any other relevant sections to clarify that the addition of marijuana to food is not considered adulteration as provided in Title 22, section 2158-B;

25. The rule must be amended, as necessary, in sections 2.2.4 and 3.9 and any other relevant sections to incorporate all statutory prohibitions regarding the items authorized for sale by marijuana stores, and the prohibitions applicable to sales by marijuana stores consistent with Title 28-B, section 504, subsections 1 and 2;

26. The rule must be amended, as necessary, in section 2.3.1(E) and any other relevant sections to substitute for the term "felony" the phrase "a crime punishable by imprisonment for one year or more" and to substitute for the term "misdemeanor" the phrase "a crime punishable by imprisonment for less than one year";

27. The rule must be amended in section 2.3.1(E)(2) and any other relevant sections to clarify

that the applicant shall submit and the department shall consider all applicants' criminal convictions in this State or in another jurisdiction for offenses involving only dishonesty, deception, misappropriation or fraud, but that, consistent with Title 28-B, section 203, subsection 1, any such convictions may not be automatically disqualifying for the purposes of licensure;

28. The rule must be amended, as necessary, in section 2.3.1(E)(7) and (8) and any other relevant sections to clarify that the applicant shall submit and the department shall consider all applicants' tax compliance history, but that, consistent with Title 28-B, section 203, subsection 2, any tax delinquency may not be automatically disqualifying for the purposes of licensure;

29. The rule must be amended in section 2.3.1 to incorporate the statutory requirement in Title 28-B, section 203, subsection 3 that the applicant submit and the department consider information regarding any violations or penalties imposed on the applicant in another jurisdiction regarding the regulated cultivation, manufacture, testing or sale of marijuana or marijuana products, but that any such violations or penalties may not be automatically disqualifying for the purposes of licensure;

30. The rule must be amended, as necessary, in section 2.4.1(B) and any other relevant sections to clarify that a conditional license issued by the department may be used by the applicant to which the license was issued to demonstrate that the applicant has met all applicable requirements for conditional licensure in accordance with Title 28-B, section 205, subsection 3 for the purpose of seeking local authorization;

31. The rule must be amended, as necessary, in section 2.4.3(A)(8) and any other relevant sections to remove authorization for the department to disseminate or disclose criminal history record information obtained through a criminal history record check if requested as part of a law enforcement investigation. The rule must be amended, as necessary, in section 2.4.3 to ensure consistency between the provisions of section 2.4.3 and the provisions of Title 28-B, section 204;

32. The rule must be amended in sections 2.4.4(B) and 12.1.2(F) to substitute for the terms "Maine Electrical Code" and "Maine's Electrical Code" the term "applicable electrical code";

33. The rule must be amended in sections 2.4.4(D), 2.4.8, 2.4.9, 3.4.1(D), 3.6.7, 3.8.6, 12.2.2(B)(3) and 12.3.5(C) and any other relevant sections to substitute the terms "marijuana for medical use," "marijuana products for medical use," "marijuana concentrate for medical use," "marijuana plants for medical use," "marijuana cultivation for medical use" and other similar terminology, as appropriate and as

consistent with the use of such terminology in Title 22, chapter 558-C and in Title 28-B, for any incorrect terminology in those sections;

34. The rule must be amended, as necessary, in sections 2.4.8, 2.4.9 and 3.9 and any other relevant sections to incorporate the statutory prohibition in Title 28-B, section 504, subsection 5 on the use of a shared facility for the sale of adult use marijuana and adult use marijuana products and the sale of marijuana and marijuana products for medical use;

35. The rule must be amended in section 2.4.9(A) to substitute for the term "registered medical marijuana manufacturing facility" the term "manufacturing facility registered in accordance with Title 22, section 2423-F";

36. The rule must be amended in section 2.5.1 to clarify that the department verifies that each marijuana establishment, excluding testing facilities, satisfies the residency requirements of Title 28-B, section 202, subsection 2 and this rule. The rule must be amended in section 2.5.1(C) to clarify that the department may refuse to issue a conditional license to an applicant at its discretion until it is satisfied that the applicant has satisfied the residency requirements of Title 28-B, section 202, subsection 2 and this rule;

37. The rule must be amended, as necessary, in section 2.5.5 and any other relevant sections to clarify that any denial of an application for a conditional license must be for good cause consistent with Title 28-B, section 206;

38. The rule must be amended in section 2.6.2(B) to clarify that upon receipt of a local authorization certification form, the department shall, within 10 calendar days, notify the applicant of any additional information needed for the issuance of an active license or, if applicable, a provisional license;

39. The rule must be amended in section 2.7.2(D) to substitute for the phrase "medical marijuana credential revocation" the phrase "revocation of a registry identification card or registration certificate issued pursuant to Title 22, chapter 558-C";

40. The rule must be amended in section 2.8.1(B) and any other relevant sections to remove authority for the department to authorize inspections by a 3rd party;

41. The rule must be amended, as necessary, in sections 2.8.1(E) and 2.8.2 and any other relevant sections to clarify the application of and the requirements for an increase in cultivation tier upon approval, consistent with Title 28-B, section 303, and the application of and the requirements for an increase in maximum licensed plant canopy upon renewal of a tier 4 cultivation facility license, consistent with Title 28-B, section 304, including, but not limited to, clarification that the increase under Title 28-B, section 304 is available only with respect to a tier 4 cultivation facility



license and is available to a licensee only every 2 years;

42. The rule must be amended, as necessary, in section 2.10 to refer to a transfer of ownership interests instead of a transfer of license, consistent with Title 28-B, section 210;

43. The rule must be amended, as necessary, in section 2 and any other relevant sections to incorporate:

A. A process for revocation or refusal to renew an inactive license, consistent with Title 28-B, section 214;

B. The statutory prohibitions in Title 28-B, section 205, subsection 2, paragraphs A, B and C regarding the limitation on the number of cultivation facility licenses or total authorized plant canopy in common ownership, the limitation on the common ownership of a testing facility license and any other license type or common ownership with a registered caregiver or registered dispensary and the limitation until January 1, 2022 on the number of marijuana store licenses in common ownership; and

C. A process for the termination of a license, consistent with Title 28-B, section 212;

44. The rule must be amended in sections 3.6.3(B)(3) and (4) to substitute for the term "marijuana plant start" the term "seedling";

45. The rule must be amended, as necessary, in sections 3.8.1(G), 5.2(B)(9), 11 and 12.5 and any other relevant sections to remove the term "third-party" in reference to testing facilities or laboratories and to substitute, as appropriate, for the terms "laboratory" or "laboratories" the terms "testing facility" or "testing facilities";

46. The rule must be amended, as necessary, in section 3.8.2(A)(2) and any other relevant sections to incorporate the statutory prohibition in Title 28-B, section 703, subsection 1, paragraph E on the sale of edible marijuana products in the distinct shape of a human, animal or fruit and ensure consistency with Title 28-B, section 703, subsection 1, paragraph E;

47. The rule must be amended, as necessary, in section 3.9.7(B) and any other relevant sections to clarify that reusable exit packaging that is not tamper-evident may be used or sold by a licensee only if marijuana or marijuana products sold to a consumer that are placed in such reusable exit packaging are prepackaged in tamper-evident packaging and that such sale otherwise meets applicable packaging requirements of Title 28-B, section 701, subsection 2. The rule must be amended, as necessary, in sections 11.3, 11.4 and 11.5 and any other relevant sections to ensure consistency with the requirements in Title

28-B, section 701, subsection 2 regarding tamper-evident, child-resistant and opaque packaging;

48. The rule must be amended in section 4.1(B)(11) and any other relevant sections to require a licensee to record in the tracking system data regarding, where applicable, the municipality or municipalities where the marijuana or marijuana product was cultivated, harvested, manufactured, tested, sold to other licensees, sold to consumers and disposed of or destroyed;

49. The rule must be amended, as necessary, in section 5 and any other relevant sections, consistent with the statutory prohibition in Title 28-B, section 702, subsection 1, paragraph B, on advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal particularly to persons under 21 years of age and to incorporate the statutory prohibition in Title 28-B, section 702, subsection 1, paragraph C on the use of advertising by a marijuana establishment within 1,000 feet from a school;

50. The rule must be amended, as necessary, in section 6.1.1 and any other relevant sections to clarify that trade samples may not be sold or otherwise provided or conveyed for payment or consideration;

51. The rule must be amended in section 9 to delete the 2nd sentence of the first paragraph and to delete section 9.1(A)(2). The rule must be amended in section 9.1(A)(1) to provide that licensees must notify the Department of Public Safety of a discharge but are not required to notify the Department of Environmental Protection of such discharge. The rule must be amended in section 9.1(B)(1) to provide that the licensee must contact the National Response Center. The rule must be amended in section 9.2(A) to provide that a marijuana plant, marijuana trim, other marijuana and other plant material may be classified as hazardous waste if it is toxic, flammable or a listed waste subject to regulation under Department of Environmental Protection rule Chapter 850;

52. The rule must be amended in the 2nd sentence of section 11 to delete the phrase "if such facility is in operation." The rule must be amended in the 3rd sentence of section 11 to clarify, consistent with Title 28-B, section 602, subsection 1, the department's authority to temporarily waive mandatory testing requirements;

53. The rule must be amended, as necessary, in section 11.1.3(F) and any other relevant sections, consistent with the statutory prohibition in Title 28-B, section 701, subsection 4, paragraph B, on labeling or packaging of marijuana or marijuana products in a manner that is specifically designed to appeal particularly to a person under 21 years of age. The rule must be amended, as necessary, in section 11.1 to incorporate the statutory requirements in Title 28-B, section

701, subsection 1, paragraphs A, B and C that all marijuana and marijuana product labels include the license numbers of the cultivation facility and products manufacturing facility, if applicable, involved with the cultivation and manufacture of the marijuana or marijuana product, an identity statement and health and safety warning labels. The rule must be amended, as necessary, in section 11.1 to incorporate the statutory prohibition in Title 28-B, section 701, subsection 4, paragraph D on labeling or packaging that depicts a human, animal or fruit;

54. The rule must be amended in section 11.2(C) to provide that any statement as to cannabinoid profile or the presence or absence of contaminants must require testing and label verification by a licensed testing facility;

55. The rule must be amended, as necessary, in section 13.6 and any other relevant sections to incorporate, consistent with Title 28-B, section 207, subsection 1, paragraph D, the increased annual license fee for a tier 4 cultivation facility license that has increased its maximum amount of plant canopy pursuant to Title 28-B, section 304;

56. All necessary grammatical, formatting, punctuation or other technical nonsubstantive editing changes must be made to the rule, including, but not limited to, the designation of the rule chapter as "Chapter 1: Adult Use Marijuana Program" and any necessary correction of the description of the units of the rule to ensure proper reference and application of the provisions of the rule; and

57. All other necessary changes must be made to the rule to ensure conformity and consistency throughout the rule and to ensure consistency between the rule and the provisions of this Act and between the rule and the provisions of Title 28-B.

The Department of Administrative and Financial Services, office of marijuana policy is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section.

See title page for effective date.

**CHAPTER 492**

**H.P. 566 - L.D. 761**

**An Act To Ensure That Incarcerated Individuals Are Eligible for Medicaid during Incarceration and Receive Food Supplement Program Benefits upon Release**

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

**Sec. 1. 22 MRSA §3104, sub-§17** is enacted to read:

**17. Preenrollment for persons released from a correctional facility.** The department shall apply for and implement a waiver pursuant to 7 Code of Federal Regulations, Part 273 to promote streamlined and timely access to food supplement program benefits for a person who is being released from incarceration. The waiver must:

A. Serve a person who is incarcerated in any state or county correctional facility and who, upon the person's release, is not entering a household that is receiving food supplement program benefits;

B. Permit a person described in paragraph A to submit an application for food supplement program benefits sufficiently in advance of the person's release date to ensure the availability of benefits on that date; and

C. Establish that the release date of a person described in paragraph A is the first day the person is eligible for food supplement program benefits.

**Sec. 2. 22 MRSA §3174-CC**, as enacted by PL 2001, c. 659, Pt. B, §1, is repealed and the following enacted in its place:

**§3174-CC. Medicaid eligibility during incarceration**

**1. Establish procedures.** The department shall establish procedures to ensure that:

A. A person receiving federally approved Medicaid services prior to incarceration does not lose Medicaid eligibility as a result of that incarceration and receives assistance with reapplying for benefits if that person's Medicaid coverage expires or is terminated during the term of incarceration; and

B. A person who is not receiving federally approved Medicaid services prior to incarceration but meets the eligibility requirements for Medicaid receives assistance with applying for federally approved Medicaid services.

**2. Presumptive eligibility.** If a MaineCare provider determines that a person who is incarcerated who does not have Medicaid coverage is likely to be eligible for services under this section, the provider must be reimbursed for services provided under this section in accordance with 42 Code of Federal Regulations, Section 435.1101.

**3. Memorandum of understanding.** The department and the Department of Corrections shall enter into a memorandum of understanding in order to provide an incarcerated person with assistance in applying for benefits under this section and section 3104, subsection 17.