

MAINE STATE LEGISLATURE

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STATE OF MAINE
127TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE
AND PUBLIC SAFETY**

August 2015

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STATE OF MAINE

127TH LEGISLATURE

FIRST REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 127th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

| | |
|------------------------------------------------------------|------------------------------------------------------------------------------------------|
| <i>CARRIED OVER</i> | <i>carried over to a subsequent session of the Legislature</i> |
| <i>CON RES XXX</i> | <i>chapter # of constitutional resolution passed by both houses</i> |
| <i>CONF CMTE UNABLE TO AGREE</i> | <i>Committee of Conference unable to agree; legislation died</i> |
| <i>DIED BETWEEN HOUSES</i> | <i>House & Senate disagreed; legislation died</i> |
| <i>DIED IN CONCURRENCE</i> | <i>defeated in each house, but on different motions; legislation died</i> |
| <i>DIED ON ADJOURNMENT</i> | <i>action incomplete when session ended; legislation died</i> |
| <i>EMERGENCY</i> | <i>enacted law takes effect sooner than 90 days after session adjournment</i> |
| <i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i> | <i>emergency failed to receive required 2/3 vote</i> |
| <i>FAILED, ENACTMENT or FINAL PASSAGE</i> | <i>failed to receive final majority vote</i> |
| <i>FAILED, MANDATE ENACTMENT</i> | <i>legislation proposing local mandate failed required 2/3 vote</i> |
| <i>HELD BY GOVERNOR</i> | <i>Governor has not signed; final disposition to be determined at subsequent session</i> |
| <i>LEAVE TO WITHDRAW</i> | <i>sponsor's request to withdraw legislation granted</i> |
| <i>NOT PROPERLY BEFORE THE BODY</i> | <i>ruled out of order by the presiding officer; legislation died</i> |
| <i>INDEF PP</i> | <i>indefinitely postponed; legislation died</i> |
| <i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i> | <i>ought-not-to-pass report accepted; legislation died</i> |
| <i>P&S XXX</i> | <i>chapter # of enacted private & special law</i> |
| <i>PUBLIC XXX</i> | <i>chapter # of enacted public law</i> |
| <i>RESOLVE XXX</i> | <i>chapter # of finally passed resolve</i> |
| <i>VETO SUSTAINED</i> | <i>Legislature failed to override Governor's veto</i> |

The effective date for non-emergency legislation enacted in the First Regular Session of the 127th Legislature is October 15, 2015. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Criminal Justice and Public Safety

LD 1380 **An Act To Legalize, Tax and Regulate Marijuana**

**Accepted Majority
(ONTP) Report**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|----------------------|-------------------------|---------------------------|
| RUSSELL VALENTINO | ONTP OTP-AM | |

This bill addresses the use, possession, cultivation, manufacturing, testing, transportation and sale of marijuana and marijuana products.

The bill legalizes the possession of up to an ounce of marijuana for a person 21 years of age and older, taxes sales of marijuana and regulates the marijuana industry, which in the language of the bill is conducted by marijuana establishments. The bill does the following:

1. In Part A the bill imposes the marijuana excise tax of 15% on the sale or transfer of marijuana from a licensed commercial marijuana cultivation facility to a licensed retail marijuana store and to a licensed marijuana product manufacturing facility. The bill imposes a sales tax of 10% on marijuana and marijuana products sold at retail marijuana stores. The bill provides for the distribution of marijuana excise and sales tax revenues. The bill requires an annual report to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and taxation matters on excise and sales tax receipts and the distribution of the revenues. The bill directs the Department of Administrative and Financial Affairs, Bureau of Revenue Services to review methods for ensuring that all nonexempt marijuana sold in the State is assessed and to report its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over taxation matters and authorizes the committee to submit legislation to the First Regular Session of the 128th Legislature;

2. In Part B the bill updates the law relating to marijuana that generally prohibits possession of marijuana to exempt possession by certain people and of certain amounts from prosecution as a crime. The bill makes possession of up to two and one-half ounces of marijuana a civil violation for persons less than 21 years of age, punishable by a fine of up to \$100, with an option of court-ordered community service and possible expungement after one year. The bill legalizes possession of up to one ounce of marijuana by a person 21 years of age or older. The bill makes possession of over one ounce but under 2 1/2 ounces of marijuana by a person 21 years of age or older a civil violation, punishable by a fine of up to \$100, with an option of court-ordered community service and possible expungement after one year;

3. In Part C the bill enacts the Personal Use of Marijuana Act, allowing a person 21 years of age or older to use, purchase from a retail marijuana store or possess up to one ounce of marijuana or marijuana products and marijuana accessories. The bill allows a person 21 years of age or older to transfer or furnish, without remuneration, up to one ounce of marijuana and up to six marijuana seedlings to another person 21 years of age or older. The bill allows a person 21 years of age or older to possess, grow, cultivate or process up to six marijuana plants and to possess the marijuana products produced from the marijuana plants on the premises where the plants were grown. The bill allows a person 21 years of age or older to use marijuana in a nonpublic place, including a private residence. The bill allows a person 21 years of age or older to cultivate marijuana at home. The bill addresses the relationship of the provisions in the bill to state laws regarding marijuana, smoking tobacco products, operation of motor vehicles, watercraft, snowmobiles and all-terrain vehicles and hunting. The bill addresses marijuana under federal law and on federal property. The bill directs that a person who consumes or uses marijuana or marijuana products in accordance with the law may not be denied parental rights and responsibilities for a minor child because of that use unless the person's behavior creates an unreasonable danger to the health or welfare of the minor child. The bill provides similar protections with regard to the Child and Family Services and Child Protection Act;

4. In Part D the bill requires the Bureau of Alcoholic Beverages and Lottery Operations within the Department of

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Administrative and Financial Services to enforce the laws and rules relating to the manufacturing, processing, labeling, storing, transporting, testing and selling of marijuana and marijuana products by marijuana establishments and marijuana transportation providers and to administer the laws relating to licensure, regulation and collection of taxes from marijuana establishments. The bill specifies authorized activities for marijuana establishments, requirements for record keeping, restrictions on access for persons under 21 years of age, procedures for investigations, disciplinary procedures and procedures for license suspension. The bill establishes procedures for licensing marijuana establishments, which include commercial marijuana cultivation facilities, marijuana testing facilities, marijuana product manufacturing facilities and retail marijuana stores, and marijuana transportation providers. The bill specifies general licensing requirements for marijuana establishments and marijuana transportation providers and general operational requirements. The bill includes specific requirements for the manufacturing of solvent-based marijuana concentrate by marijuana product manufacturing facilities. The bill requires the bureau to adopt rules required for implementation and designates the rules as major substantive rules. The bill requires the bureau to issue an annual report that contains information on rulemaking, licensing and inspections and statistical data on youth consumption and perceptions of safety of marijuana, tobacco, alcohol and controlled substances. The bill authorizes the joint standing committees of the Legislature having jurisdiction over health and human services matters, taxation matters and alcoholic beverages matters to submit legislation to address issues related to the report. The bill contains provisions allowing for local control with regard to marijuana establishments, including allowing a sales tax of up to 2% on sales by retail marijuana stores of marijuana and marijuana products. The bill provides for licensure by default by a municipality if the bureau delays issuing licenses beyond January 30, 2018. The bill establishes the Marijuana Regulation and Licensing Fund to pay the bureau's expenses, allows researchers access to marijuana and provides for access to marijuana for participants in research. The bill provides rules of construction for the provisions regarding marijuana establishments and marijuana transportation providers, provides for the validity and enforceability of contracts and addresses professional licensure for professional occupations. The bill establishes the Marijuana Research Fund to provide research grants and the Low-income Marijuana Patient Access Program Fund to reimburse caregivers and dispensaries for the costs of providing medical marijuana to low-income persons. The bill requires the bureau to adopt major substantive rules by January 31, 2018. The bill requires the bureau to begin accepting and processing applications for marijuana establishments and marijuana transportation providers by January 1, 2018;

5. In Part E the bill protects property from forfeiture based on the personal use of marijuana law. The bill provides that the odor of marijuana alone does not create probable cause of criminal activity;

6. In Part F the bill amends the laws on the preparation of foods to allow for food containing marijuana and marijuana products to be prepared by marijuana establishments. The bill amends the Maine Food Law to include in the definition of "food establishment" a marijuana establishment that prepares edible marijuana or an edible marijuana product and provides that food containing marijuana produced by a marijuana establishment is not considered adulterated. The bill amends the law on adulterated food to specify that goods that contain marijuana and are prepared for sale in a retail marijuana establishment pursuant to the Maine Revised Statutes, Title 28-A, chapter 111 are not to be considered adulterated food. The bill enacts a new section in the Maine Food Law that imposes requirements on marijuana establishments that sell edible marijuana products with regard to the packaging and labeling of marijuana and marijuana products and prohibits misleading, false or deceptive advertising or advertising that is inconsistent with local laws and regulations in the municipality in which the marijuana establishment operates. The bill amends the law on employment of minors to require the director of the Bureau of Labor Standards in the Department of Labor to adopt rules prohibiting the employment of minors in marijuana establishments licensed pursuant to Title 28-A, chapter 111. The bill directs the Department of Labor, in consultation with the State Workforce Investment Board, to review and make recommendations on workforce development needs, including training and certification, and to report to the joint standing committee of the Legislature having jurisdiction over labor, commerce, research and economic development matters by April 1, 2017;

7. In Part G the bill amends the law on the criteria for issuing a permit to carry concealed handguns to provide that conduct allowed under the law on medical use of marijuana under Title 22, chapter 558-C and conduct allowed under the law on personal use of marijuana under Title 22, chapter 558-D may not be the basis for a finding of a

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lack of good moral character;

8. In Part H the bill establishes in Title 5, chapter 379 the Youth Marijuana Prevention and Control Advisory Council. The bill establishes the Youth Marijuana Prevention and Control Program to prevent youth from using marijuana and marijuana products except for the medical use of marijuana in accordance with Title 22, chapter 558-C. The program consists of a major media campaign, grants for community-based programs, procedures for monitoring and evaluating the program and, in conjunction with law enforcement and other state and federal agencies, increased law enforcement efforts to increase compliance with laws regarding the transportation, distribution and sale of marijuana and marijuana products. The bill provides for the duties of the Youth Marijuana Prevention and Control Advisory Council, which include advising the Department of Health and Human Services and working to ensure coordination of the program with nonprofit and community agencies, the department, the Department of Education and other state agencies. The bill specifies that the members of the advisory council are appointed by the Governor, the President of the Senate and the Speaker of the House of Representatives. The bill requires that the initial appointments to the advisory council must be made by March 15, 2017 and that the first meeting of the advisory council must be held by April 15, 2017; and

9. In Part I the bill provides for a referendum to approve the legislation. This procedure requires that the bill, if passed into law and enacted, must be submitted to the voters of the State in a statewide election in November 2016.

Committee Amendment "A" (H-488)

This amendment, which is the minority report of the committee. It retains the structure of the bill that legalizes personal use of marijuana by adults 21 years of age and older, that establishes a system of regulation of marijuana establishments and marijuana transportation providers within the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations and that imposes a tax of 10% on retail sales of marijuana and marijuana products. The amendment does the following:

1. It amends taxation provisions in the bill to provide the structure for the payment of taxes and administration by the Bureau of Revenue Services;
2. It corrects the confusing use of the term "minor" in the bill, which was intended to cover persons through 20 years of age, by referring to persons too young to be allowed personal use of marijuana as "underage persons";
3. It provides maximum penalties for underage persons with respect to the purchase, consumption and possession of marijuana and with respect to other prohibited acts related to marijuana. It allows a judge to assign an underage person to perform specified work for a public entity or charitable institution as an alternative to these penalties;
4. In the provisions on possession of marijuana it reduces from six to three the number of marijuana seedlings that a person may transfer to another person, clarifies that the limit of six plants applies to all plants and requires that the reasonable precautions that must be taken to keep marijuana plants from underage persons apply to storing and securing marijuana;
5. It amends the provision prohibiting marijuana sales from vending machines by allowing sales from vending machines inside a retail marijuana store;
6. It amends the provisions on applications for marijuana establishments and marijuana transportation providers to comply with the requirement that the location of the business be a municipality, unorganized place or plantation that has voted to allow such businesses and provides the option of that jurisdiction to limit the number of businesses;
7. It amends the provisions on operation of a retail marijuana store, a marijuana product manufacturing facility and a commercial marijuana cultivation facility;
8. It makes technical editing and typographic corrections in the bill;

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- 9. It amends the bill's labeling requirements for retail sales of marijuana and marijuana products;
- 10. It allows municipalities, unorganized places and plantations to impose a local marijuana sales tax of up to 2%;
- 11. It changes from 15% to 5% the excise tax imposed in the bill on marijuana that is sold or transferred from a commercial marijuana cultivation facility; and
- 12. It clarifies that the 10% sales tax on the retail sale of marijuana is in addition to the regular state sales tax.

LD 1387 An Act Regarding the State Board of Corrections

CARRIED OVER

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| THIBODEAU | | |

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to amend the laws regarding the State Board of Corrections.

This bill was carried over to any special or regular session of the 127th Legislature by joint order, H.P. 992.

LD 1401 An Act To Allow for and Regulate the Adult Use of Cannabis

**Accepted Majority
(ONTP) Report**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| DION GERZOFKY | ONTP OTP-AM | |

This bill reforms state marijuana laws by establishing an excise tax on marijuana, allowing the personal use and cultivation of cannabis and allowing, regulating and licensing certain commercial cannabis-related activities, while providing provisions to protect persons under 21 years of age, employers and schools.

Part A of the bill establishes a 10% sales tax on cannabis, which is in addition to the current sales and use tax. Revenue from the sales tax on cannabis is distributed on a monthly basis as follows:

- 1. Ten percent each to regulate cannabis establishments; to counties and municipalities, based on the ratio of sales of cannabis products in the municipality or county to the sales of cannabis products in the State; to the Fund for a Healthy Maine for the elderly low-cost drug program; to the Department of Education for school construction; to conduct research on cannabis; to the Department of Health and Human Services, Maine Center for Disease Control and Prevention for a public awareness campaign to reduce the use of cannabis by persons under 21 years of age and the use of alcohol and tobacco; and to the Department of Health and Human Services to obtain federal funding for MaineCare; and
- 2. The balance to the General Fund.

Part A directs the Department of Administrative and Financial Services, Bureau of Revenue Services to report annually, beginning January 30, 2017, the amount of tax revenue generated and the amount distributed to each program to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and taxation matters. The bill directs the Bureau of Revenue Services to review methods for ensuring that all