

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 HEALTH AND
HUMAN SERVICES**

August 2015

STAFF:

ANNA BROOME, LEGISLATIVE ANALYST
MICHAEL O'BRIEN, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

AND

LUKE LAZURE, LEGISLATIVE ANALYST
OFFICE OF FISCAL AND PROGRAM REVIEW
5 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1635

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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 Health and Human Services

LD 1385 An Act To Enable a Foster Child To Remain in a Daycare Facility Selected by a Foster Parent

ONTP

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| HAMANN HASKELL | ONTP | |

This bill requires the Department of Health and Human Services to pay 100 percent of the child care expenses incurred by a foster parent for child care provided at a licensed child care provider selected by the foster parent, subject to certain determinations of the department. The bill is in response to a proposal by the department to cap daycare payments.

LD 1392 An Act To Amend the Maine Medical Use of Marijuana Act

Accepted Minority (ONTP) Report

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

This bill makes the following changes to the Maine Medical Use of Marijuana Act. The bill provides that:

1. The Department of Health and Human Services is permitted to obtain intelligence and investigative record information if it is used in the operation and oversight of the Act;
2. The term "person" means an individual, corporation, facility, institution or public or private agency;
3. The term "primary caregiver" means an individual, employee of that individual or an employee of a hospice provider licensed under the Maine Revised Statutes, Title 22, chapter 1681 or a nursing facility licensed under chapter 405 that provides care for a qualifying patient. A corporation, facility, institution or public or private agency may not be a primary caregiver;
4. The definition of "registered patient" is repealed and all references to the concept of registering a patient have been removed from the Act;
5. The definition of "registry identification card" is amended to include a medical provider-issued medical certification card, department-issued caregiver certification card and department-issued dispensary certification card;
6. A business entity that is a hospice or nursing facility is not allowed to be a primary caregiver, but staff of such an entity may be designated as a primary caregiver if the entity elects to honor a patient's request for this service;
7. A primary caregiver may only dispense 2.5 ounces of medical marijuana to each qualifying patient in a 15-day period;
8. A municipal official who is furthering the business of a municipality may enter a cultivation facility;
9. Exceptions to the requirement that a primary caregiver designated to cultivate marijuana for a qualifying patient register with the department are removed;

Joint Standing Committee on Health and Human Services

10. A visiting qualifying patient must be in this State not less than 24 consecutive hours;
11. A visiting qualifying patient must designate a primary caregiver in this State or registered dispensary in this State. A visiting qualifying patient receives protections under this Act only while in this State. A visiting qualifying patient is included in the maximum of five qualifying patients a primary caregiver may assist;
12. The department may not establish a sliding scale of application and renewal fees based on a registered patient's family income and status as a veteran of the Armed Forces of the United States. The language establishing these provisions is removed;
13. Language regarding registered patients has been removed or changed to reflect the medical provider certification process;
14. Failure of an applicant to comply with the Act or rules adopted pursuant to the Act or a determination by the Department of Health and Human Services that an applicant has acted in bad faith with respect to the laws and rules governing medical use of marijuana is grounds for denial of an application or renewal of a registry identification card;
15. The name of a complainant who reports a violation of the Act is confidential;
16. Information to be included in the annual report to the Legislature has been changed to reflect changes in the medical provider certification process and new caregiver certification card terminology;
17. Fees are nonrefundable except that an unsuccessful applicant for a dispensary certificate of registration must be refunded all but \$1,000 of the application fee;
18. When a registry identification card is denied or revoked on one occasion the individual may not reapply for one year; when a registry identification card is denied or revoked on two occasions the individual may not reapply for two years; and when a registry identification card is denied or revoked on three occasions the individual may not receive another registry identification card;
19. The effective date for the revocation of a caregiver certification card is 10 days after the notice date or 10 days after the right to appeal is exhausted, whichever is later. The caregiver must notify the caregiver's qualifying patients and dispose of the caregiver's medical marijuana;
20. A primary caregiver and a registered dispensary are subject to fines for violations of the provisions of the Act or for failing to register as a primary caregiver or dispensary;
21. Fines prescribed for violations of the Act are mandatory;
22. The Office of the Attorney General may seek an injunction to require a registered primary caregiver, a registered dispensary, a person who fails to register as a primary caregiver and who engages in conduct that is only authorized for a registered primary caregiver or a person or entity that fails to register as a dispensary and that engages in conduct that is only authorized for a registered dispensary to comply with the Act. The District Court may order the registered primary caregiver, the registered dispensary or the person or entity to pay the costs of the investigation and the costs of suit, including attorney's fees;
23. The Office of the Attorney General may seek court action against a registered primary caregiver, a registered dispensary or a person or entity for violation of an injunction, including but not limited to imposition of a fine; and
24. The department's burden of proof for a violation of the Act is a preponderance of the evidence.

Committee Amendment "A" (H-454)

Joint Standing Committee on Health and Human Services

This amendment, which is the majority report:

1. Reallocates the provisions of the bill that govern the dissemination of intelligence and investigative record information from the Maine Revised Statutes, Title 16, section 806 to Title 16, section 805;
2. Removes changes to the provision that governs from whom a qualifying patient may accept excess prepared marijuana;
3. Provides that primary caregivers and registered dispensaries may request a waiver from the Department of Health and Human Services to obtain permission to provide more than 2.5 ounces of prepared marijuana during a 15-day period to accommodate a qualifying patient's medical needs and directs the department to adopt rules governing the waiver process;
4. Changes the condition for the right of access to a cultivation facility by a municipal official from "to further the business of the municipality" to "to enforce municipal code";
5. Includes an exception to the registration requirement for a primary caregiver designated to cultivate marijuana for a qualifying patient who cultivates for up to two qualifying patients if the qualifying patients are members of the family of that primary caregiver and residents of this State;
6. Includes employees of a registered primary caregiver in the list of individuals required to obtain registry identification cards;
7. Changes the standard for denial of an application from a requirement that the applicant acted in bad faith with respect to the laws and rules governing the medical use of marijuana to a requirement that the applicant violated these laws and rules;
8. Eliminates the exception for expiration of registry identification cards;
9. Repeals the requirement that the department track the number of qualifying patients who designate a dispensary to cultivate marijuana for them and report this number to the dispensary;
10. Provides that a person who was a primary caregiver until that person's caregiver registration card for qualifying patients was revoked may continue to cultivate marijuana for that person's personal use if that person is a qualifying patient and not otherwise prohibited under the law; and
11. Makes the imposition of fines discretionary; amends the penalty provisions for registered primary caregivers and dispensaries so that each day of a violation does not constitute a separate offense and so that a Class D crime may not be imposed for repeat violations; eliminates the provision establishing the burden of proof for alleged violations of the Maine Medical Use of Marijuana Act; and directs the Department of Health and Human Services to adopt routine technical rules to carry out the objectives of the compliance provisions.

House Amendment "A" (H-465)

This amendment amends the penalty for failure to register as a primary caregiver for a second and subsequent violation from a Class D crime to a Class E crime. This amendment was not adopted.