

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
127<sup>TH</sup> 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

127<sup>TH</sup> LEGISLATURE

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## 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 127<sup>th</sup> 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 &amp; 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&amp;S XXX</i> .....	<i>chapter # of enacted private &amp; 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 127<sup>th</sup> 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.

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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

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cannabis that is 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 by February 15, 2017.

Part B removes the civil violation for possession of cannabis by adults 21 years of age and older and specifies a civil fine of at least \$100 for possession of cannabis by a person under 21 years of age; a judge may, as an alternative or in addition to the fine, assign the person to perform work for the State, a subdivision of the State, a public entity or a charity.

Part C of the bill establishes the Cannabis Regulation Act, which allows a person 21 years of age or older to possess, purchase and use cannabis within certain limits and to cultivate a limited amount of cannabis for personal use. It allows a person to possess cannabis paraphernalia and up to one ounce of cannabis. It allows a person to cultivate up to three cannabis plants and up to six seedlings, and to purchase up to one ounce of cannabis, cannabis paraphernalia and cannabis seedlings from someone who is licensed to sell these products. The bill imposes restrictions on cannabis use similar to those that apply to tobacco use regarding smoking in public places. It requires those cultivating cannabis to secure the cannabis from access by unauthorized persons and by minors.

Part C includes specific requirements for the operations of commercial cannabis-related activities regarding the location of operations, security measures, labeling and record keeping. It allows localities to limit, regulate or ban the issuance of cannabis-related licenses. It further limits the number of retail cannabis stores based on the size of the municipality. Enforcement and administration of the Cannabis Regulation Act is the responsibility of the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, which is renamed the Bureau of Alcoholic Beverages, Cannabis and Lottery Operations. The bureau is required to adopt rules for the licensing and regulation of cannabis establishments; upon the adoption of such rules, each dispensary registered under the Maine Medical Use of Marijuana Act is granted a provisional license to operate a commercial cannabis cultivation facility, a cannabis product manufacturing facility and a retail cannabis store. Included in the rules must be a provision giving preference for licensing to a registered dispensary under the Maine Medical Use of Marijuana Act. A dispensary organized as a nonprofit corporation that reorganizes under the Maine Revised Statutes, Title 13-C is deemed to be the same dispensary for licensing purposes. Part C creates the Cannabis Regulation and Licensing Fund to provide a funding mechanism for regulation of commercial cannabis-related activities and the Cannabis Research Fund to fund research on cannabis; both funds are funded by revenue from the sales tax on cannabis.

Part C also amends the Maine Medical Use of Marijuana Act to remove the requirement that dispensaries be nonprofit corporations, remove the restriction on how much marijuana may be transferred by a primary caregiver for compensation, require a primary caregiver's cultivation facility to be open to reasonable inspection by the Department of Health and Human Services and cap the number of primary caregivers registered with the department at the number registered with the department on December 31, 2015.

Finally, Part C requires the Department of Agriculture, Conservation and Forestry to adopt rules regulating the use of pesticides in cannabis cultivation operations.

Part D renames the Bureau of Alcoholic Beverages and Lottery Operations within the Department of Administrative and Financial Services, the Bureau of Alcoholic Beverages, Cannabis and Lottery Operations.

Part E updates the exceptions to the laws restricting possession of marijuana in the Maine Criminal Code to reflect the use permitted by this legislation. Part E also provides that the odor of cannabis does not create probable cause of criminal activity.

Part F removes provisions in the law that make licensing of industrial hemp farming contingent upon federal action and that require licensees to document the type of hemp planted and to provide notification of each sale. This Part also updates various provisions of Title 7 and Title 22 that are affected by the enactment of the Cannabis Regulation Act and amends Title 26 to prohibit the employment of a person under 21 years of age in an

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establishment licensed for commercial cannabis-related activities.

Part G provides that a person cannot be found to lack good moral character for personal, medical or commercial marijuana activities allowed by this legislation when that person is applying to obtain a permit to carry a concealed handgun.

Part H creates the Prevention and Control of Marijuana Use by Youth Program and its administering body, the Prevention and Control of Marijuana Use by Youth Advisory Council. The purpose of the program is to prevent persons under 21 years of age from using marijuana products. Part H also creates the Cannabis Research Fund, which is established to conduct research on cannabis.

**Committee Amendment "A" (H-477)**

This amendment, which is the minority report of the committee, adds an appropriations and allocations section.

**LD 1413      An Act To Allow an Attorney To Speak or Provide a Written Statement      PUBLIC 282  
for a Victim at Sentencing**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HERBIG KATZ	OTP-AM ONTP	H-398

Current law provides that a victim may participate in the process of a defendant's sentencing and requires the court to consider any oral or written statement made by the victim to the court. This bill provides that the victim may have an attorney represent the victim and submit a written statement or speak on the victim's behalf during the sentencing process.

**Committee Amendment "A" (H-398)**

This amendment is the majority report of the committee. The amendment changes the title and removes from the bill the provision that provides that an attorney may represent the victim at a sentencing hearing. It retains and clarifies the provision of the bill that allows an attorney to submit a written statement or speak on the victim's behalf.

**Enacted Law Summary**

Public Law 2015, chapter 282 allows an attorney for a victim of a crime to submit a written statement or speak on the victim's behalf in the court sentencing procedure.

**LD 1437      An Act To Establish Training Standards for Persons Investigating      Died Between  
Domestic Abuse Complaints      Houses**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HEAD	ONTP OTP	

This bill requires that an investigation of an alleged incident of domestic abuse must be conducted by a law enforcement officer who has met the training standards of a full-time law enforcement officer.