

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH LEGISLATURE
FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



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

**JOINT STANDING COMMITTEE ON HEALTH AND
HUMAN SERVICES**

October 2018

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STATE OF MAINE

128TH LEGISLATURE

FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contain summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Special, Second Regular and Second Special Sessions of the 128th 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.

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

The effective dates for non-emergency legislation enacted in the First Special, Second Regular or Second Special Sessions of the 128th Legislature are: Monday, February 5, 2018; Wednesday, August 1, 2018; and Thursday, December 13, 2018, respectively. 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 1539

An Act To Amend Maine's Medical Marijuana Law

PUBLIC 452

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SANDERSON D	OTP-AM OTP-AM	H-765 S-530 BRAKEY E S-539 LANGLEY B S-540 KATZ R

This bill was carried over from the First Regular Session of the 128th Legislature to the Second Regular Session. The bill was again carried over from the Second Regular Session to the next special session by joint order S.P. 748.

This bill amends the laws governing the cultivation, possession and use of medical marijuana. It:

1. Amends definitions to add terms and to expand upon or provide clarity for existing terms;
2. Amends the qualifying condition of intractable pain to include pain that a medical provider determines is not managed effectively by prescription narcotics and allows a medical provider the discretion to issue a written certification for any medical condition that the physician believes may be alleviated by the patient's using marijuana for medical use. It also requires consultation with a minimum of three medical professionals, one of whom may be selected by the petitioner, prior to accepting or denying a petition to add a debilitating medical condition as a qualifying condition;
3. Replaces the limit of 2 1/2 ounces of marijuana that may be dispensed to a qualifying patient who is a Maine resident during a 15-day period with a limit of no more than two pounds in one transfer;
4. Allows a qualifying patient who is cultivating marijuana to furnish seeds and plants to another qualifying patient;
5. Permits a qualifying patient to designate more than one primary caregiver to assist the patient; the additional primary caregivers may not cultivate marijuana for the patient;
6. Prohibits a visiting qualifying patient, who is not a resident of Maine, from cultivating marijuana;
7. Permits a primary caregiver designated to cultivate marijuana to furnish seeds and plants to an authorized person;
8. Increases the number of employees that a registered cultivating primary caregiver may employ. A primary caregiver designated to cultivate can employ one person for each registry identification card the caregiver is issued;
9. Permits a primary caregiver designated to cultivate marijuana to dispose of marijuana by transferring the marijuana to a designated primary caregiver; current law allows the transfer to a dispensary;
10. Allows for certain authorized transfers of marijuana by a primary caregiver designated to cultivate marijuana for reasonable compensation;
11. Allows a primary caregiver who is assisting no more than two patients who are members of the primary caregiver's household or family to not register with the department;
12. Authorizes a primary caregiver designated to cultivate marijuana to cultivate up to six mature marijuana plants per registry identification card. The maximum number of plants allowed for cultivation is the same as in current law;

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13. Removes the limit of 2 1/2 ounces of prepared marijuana and establishes the allowable amount of harvested marijuana to be up to eight pounds that may be possessed by a patient or authorized person on behalf of a patient. It also establishes the allowable amount of marijuana to be up to eight pounds per registry identification card for a designated primary caregiver required to register, no more than eight pounds per patient, up to two patients, for a primary caregiver not required to register and eight pounds per patient for a dispensary designated by a patient;
14. Establishes tracking and reporting requirements for primary caregivers and dispensaries;
15. Permits the Department of Health and Human Services to inspect areas related to marijuana for medical use to assess compliance with the laws regulating marijuana;
16. Reduces the review period from ten days to three business days for a second physician consultation in order for a qualifying patient who is a minor to obtain a written certification when there is a list of consulting physicians and permits a physician to proceed with certification for a minor in the absence of a consulting physician list maintained by the department. It allows the Medical Use of Marijuana Fund to be used at the department's discretion to reimburse families for the cost of the required consultation by a second physician;
17. Extends the immunity existing for dispensary employees, principal officers and board members to registered primary caregivers and their employees;
18. Authorizes the department, in addition to law enforcement agencies, to remove marijuana determined to be in excess of allowable limits;
19. Permits the department to establish a period of time when persons who have had authorizations denied or revoked are ineligible for reauthorization;
20. Requires a cardholder to notify the department when the information on the card issued by the department is inaccurate or changes;
21. Amends fees for various registrations;
22. Adds a sanction for a person found to be in possession of a registry identification card issued to another person; and
23. Provides for an opportunity for an informal hearing process for specified persons aggrieved by a department enforcement action.

Committee Amendment "A" (H-765)

This amendment is the majority report of the committee. It replaces the bill and makes the following changes to the Maine Medical Use of Marijuana Act. The amendment:

1. Eliminates the list of debilitating medical conditions for which a medical provider may provide a written certification and instead allows a medical provider to certify use to patients who have a medical diagnosis that may be alleviated by the therapeutic or palliative use of marijuana;
2. Eliminates the requirement that qualifying patients designate a primary caregiver or dispensary as the sole provider of cultivation services or medical marijuana;
3. Increases the possession limit in law for qualifying patients and unregistered caregivers from 2 1/2 ounces to eight pounds, which was the amount previously authorized in rules adopted by the Department of Health and Human Services;

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4. Increases the possession limit for registered caregivers and dispensaries from an amount based on the number of patients who have designated the registered caregiver or dispensary to the amount that the registered caregiver or dispensary cultivated or otherwise lawfully acquired;
5. Allows registered caregivers and dispensaries to sell up to 30% of the marijuana the registered caregiver or dispensary cultivated to another registered caregiver or dispensary in wholesale transactions;
6. Authorizes qualifying patients, caregivers and dispensaries to manufacture marijuana products as long as certain substances that are considered hazardous are not used;
7. Authorizes qualifying patients, caregivers and dispensaries to produce marijuana concentrate using substances that are considered hazardous if certain safety and inspection requirements are met;
8. Establishes a registration process for persons and entities that are not qualifying patients, caregivers or dispensaries to manufacture marijuana products and to engage in marijuana extraction using substances that are considered hazardous if certain safety and inspection requirements are met;
9. Expands the authorization of a qualifying patient to use medical marijuana in certain assisted living and residential care facilities, in addition to hospice and nursing facilities, as long as that use is consistent with the facility's policy;
10. Allows medical marijuana testing facilities to operate in the absence of rules adopted by the Department of Health and Human Services if the facilities meet certain standards;
11. Establishes packaging, labeling and marketing requirements for the sale of medical marijuana;
12. Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to track marijuana within the medical marijuana program from seeds to final user;
13. Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to maintain books and records and allows the Department of Health and Human Services to inspect those books and records;
14. Establishes additional authority for the Department of Health and Human Services to oversee medical marijuana-related activities, including the authority to inspect registered caregiver operations, dispensaries, marijuana testing facilities and manufacturing facilities during regular business hours or hours of apparent activity without notice, except that the department may not enter the dwelling unit of a registered caregiver to undertake an inspection if the caregiver is not present;
15. Requires that records containing patient information be kept in a manner that does not allow identification of the patient or be kept confidential;
16. Directs the Department of Health and Human Services to issue six registration certificates to dispensaries, in addition to the eight dispensaries existing on April 1, 2018, to different entities, except that an existing dispensary may be awarded one additional registration certificate if its application is approved by the department;
17. Prohibits the Department of Health and Human Services from limiting the number of dispensary registration certificates issued after January 1, 2021;
18. Removes the requirement in current law that a dispensary must operate as a nonprofit business entity;
19. Clarifies that municipalities may regulate registered caregivers, registered dispensaries, medical marijuana manufacturing facilities and marijuana testing facilities, except that municipalities may not prohibit or limit the

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number of registered caregivers; and

20. Establishes a grant program to support objective scientific research funded by revenue from the Medical Use of Marijuana Fund and requires the Department of Health and Human Services to adopt rules to implement the grant program by March 1, 2019.

The amendment also allows businesses that are not permitted to deduct business expenses under federal law due to the United States Internal Revenue Code of 1986, Section 280E to deduct business expenses to the same extent as if those expenses were not excluded from deduction for federal tax purposes and requires the cost of these deductions, as well as the cost of administering these deductions, to be paid from the Medical Use of Marijuana Fund, to the extent that funds are available in the fund for those purposes.

The amendment also requires the Department of Health and Human Services to consult with statewide associations representing licensed medical professionals to develop and provide educational materials related to medical marijuana.

The amendment adds an appropriations and allocations section.

Committee Amendment "B" (H-766)

This amendment is the minority report of the committee. It replaces the bill and makes the following changes to the Maine Medical Use of Marijuana Act. The amendment:

1. Eliminates the list of debilitating medical conditions for which a medical provider may provide a written certification and instead allows a medical provider to certify use to patients who have a medical diagnosis that may be alleviated by the therapeutic or palliative use of marijuana;
2. Eliminates the requirement that qualifying patients designate a primary caregiver or dispensary as the sole provider of cultivation services or medical marijuana;
3. Increases the possession limit in law for qualifying patients and unregistered caregivers from 2 1/2 ounces to eight pounds, which was the amount previously authorized in rules adopted by the Department of Health and Human Services;
4. Increases the possession limit for registered caregivers and dispensaries from an amount based on the number of patients who have designated the registered caregiver or dispensary to the amount that the registered caregiver or dispensary cultivated or otherwise lawfully acquired;
5. Allows registered caregivers and dispensaries to sell up to 30% of the marijuana the registered caregiver or dispensary cultivated to another registered caregiver or dispensary in wholesale transactions;
6. Authorizes qualifying patients, caregivers and dispensaries to manufacture marijuana products as long as certain substances that are considered hazardous are not used;
7. Authorizes qualifying patients, caregivers and dispensaries to produce marijuana concentrate using substances that are considered hazardous if certain safety and inspection requirements are met;
8. Establishes a registration process for persons and entities that are not qualifying patients, caregivers or dispensaries to manufacture marijuana products and to engage in marijuana extraction using substances that are considered hazardous if certain safety and inspection requirements are met;
9. Expands the authorization of a qualifying patient to use medical marijuana in certain assisted living and residential care facilities, in addition to hospice and nursing facilities, as long as that use is consistent with the

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facility's policy;

10. Allows medical marijuana testing facilities to operate in the absence of rules adopted by the Department of Health and Human Services if the facilities meet certain standards;
11. Establishes packaging, labeling and marketing requirements for the sale of medical marijuana;
12. Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to track marijuana within the medical marijuana program from seeds to final user;
13. Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to maintain books and records and allows the Department of Health and Human Services to inspect those books and records;
14. Establishes additional authority for the Department of Health and Human Services to oversee medical marijuana-related activities, including the authority to inspect registered caregiver operations, dispensaries, marijuana testing facilities and manufacturing facilities during regular business hours or hours of apparent activity without notice, except that the department may not enter the dwelling unit of a registered caregiver to undertake an inspection if the caregiver is not present;
15. Requires that records containing patient information be kept in a manner that does not allow identification of the patient or be kept confidential;
16. Removes the limit on the number of dispensaries that may operate;
17. Prohibits the Department of Health and Human Services from limiting the number of dispensary registration certificates issued after January 1, 2021;
18. Removes the requirement in current law that a dispensary must operate as a nonprofit business entity;
19. Clarifies that municipalities may regulate registered caregivers, registered dispensaries, medical marijuana manufacturing facilities and marijuana testing facilities, except that municipalities may not prohibit or limit the number of registered caregivers; and
20. Establishes a grant program to support objective scientific research funded by revenue from the Medical Use of Marijuana Fund and requires the Department of Health and Human Services to adopt rules to implement the grant program by March 1, 2019.

The amendment also allows businesses that are not permitted to deduct business expenses under federal law due to the United States Internal Revenue Code of 1986, Section 280E to deduct business expenses to the same extent as if those expenses were not excluded from deduction for federal tax purposes and requires the cost of these deductions, as well as the cost of administering these deductions, to be paid from the Medical Use of Marijuana Fund, to the extent that funds are available in the fund for those purposes.

The amendment also requires the Department of Health and Human Services to consult with statewide associations representing licensed medical professionals to develop and provide educational materials related to medical marijuana.

The amendment adds an appropriations and allocations section.

Senate Amendment "D" To Committee Amendment "A" (S-530)

This amendment corrects cross-references and terms in the Maine Medical Use of Marijuana Act to conform to the Maine Revised Statutes, Title 28-B, Adult Use Marijuana, as enacted in Public Law 2017, chapter 409.

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This amendment also provides for the change in the terms "primary caregiver" and "registered primary caregiver" to "caregiver" and "registered caregiver," respectively.

Senate Amendment "G" To Committee Amendment "A" (S-539)

This amendment requires a caregiver, except for a caregiver who is a parent, guardian or person having legal custody of the qualifying patient, designated to possess medical marijuana for use by a qualifying patient and administer medical marijuana to a qualifying patient who is enrolled in primary or secondary school to submit to the same background check applicable to education personnel. The background check required includes fingerprinting.

This amendment also clarifies that a parent, guardian or person having legal custody of a qualifying patient who is enrolled in school may possess medical marijuana for use by that qualifying patient and administer medical marijuana to that qualifying patient.

Senate Amendment "H" To Committee Amendment "A" (S-540)

This amendment provides that a registered caregiver may operate one retail store to sell harvested marijuana to qualifying patients. It provides that a municipality may not prohibit registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are operating with municipal approval in the municipality prior to the effective date of this legislation and that a municipality may not authorize registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are not operating on the effective date of this legislation to operate in the municipality unless the municipal legislative body has voted to adopt or amend an ordinance or approve a warrant article allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities to operate within the municipality.

Enacted Law Summary

Public Law 2017, chapter 452:

1. Eliminates the list of debilitating medical conditions for which a medical provider may provide a written certification and instead allows a medical provider to certify use to patients who have a medical diagnosis that may be alleviated by the therapeutic or palliative use of marijuana;
2. Eliminates the requirement that qualifying patients designate a primary caregiver or dispensary as the sole provider of cultivation services or medical marijuana;
3. Increases the possession limit in law for qualifying patients and unregistered caregivers from 2 1/2 ounces to eight pounds, which was the amount previously authorized in rules adopted by the Department of Health and Human Services;
4. Increases the possession limit for registered caregivers and dispensaries from an amount based on the number of patients who have designated the registered caregiver or dispensary to the amount that the registered caregiver or dispensary cultivated or otherwise lawfully acquired;
5. Allows registered caregivers and dispensaries to sell up to 30% of the marijuana the registered caregiver or dispensary cultivated to another registered caregiver or dispensary in wholesale transactions;
6. Authorizes qualifying patients, caregivers and dispensaries to manufacture marijuana products as long as certain substances that are considered hazardous are not used;
7. Authorizes qualifying patients, caregivers and dispensaries to produce marijuana concentrate using substances that are considered hazardous if certain safety and inspection requirements are met;
8. Establishes a registration process for persons and entities that are not qualifying patients, caregivers or

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- dispensaries to manufacture marijuana products and to engage in marijuana extraction using substances that are considered hazardous if certain safety and inspection requirements are met;
9. Expands the authorization of a qualifying patient to use medical marijuana in certain assisted living and residential care facilities, in addition to hospice and nursing facilities, as long as that use is consistent with the facility's policy;
 10. Allows medical marijuana testing facilities to operate in the absence of rules adopted by the Department of Health and Human Services if the facilities meet certain standards;
 11. Establishes packaging, labeling and marketing requirements for the sale of medical marijuana;
 12. Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to track marijuana within the medical marijuana program from seeds to final user;
 13. Requires registered caregivers, dispensaries, marijuana testing facilities and manufacturing facilities to maintain books and records and allows the Department of Health and Human Services to inspect those books and records;
 14. Establishes additional authority for the Department of Health and Human Services to oversee medical marijuana-related activities, including the authority to inspect registered caregiver operations, dispensaries, marijuana testing facilities and manufacturing facilities during regular business hours or hours of apparent activity without notice, except that the department may not enter the dwelling unit of a registered caregiver to undertake an inspection if the caregiver is not present;
 15. Requires that records containing patient information be kept in a manner that does not allow identification of the patient or be kept confidential;
 16. Directs the Department of Health and Human Services to issue six registration certificates to dispensaries, in addition to the eight dispensaries existing on April 1, 2018, to different entities, except that an existing dispensary may be awarded one additional registration certificate if its application is approved by the department;
 17. Prohibits the Department of Health and Human Services from limiting the number of dispensary registration certificates issued after January 1, 2021;
 18. Removes the requirement in current law that a dispensary must operate as a nonprofit business entity;
 19. Establishes a grant program to support objective scientific research funded by revenue from the Medical Use of Marijuana Fund and requires the Department of Health and Human Services to adopt rules to implement the grant program by March 1, 2019;
 20. Clarifies that a registered caregiver may operate one retail store to sell harvested marijuana to qualifying patients;
 21. Provides that a municipality may not prohibit registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are operating with municipal approval in the municipality prior to the effective date of this legislation and that a municipality may not authorize registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are not operating on the effective date of this legislation to operate in the municipality unless the municipal legislative body has voted to adopt or amend an ordinance or approve a warrant article allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities to operate within the municipality;
 22. Allows businesses that are not permitted to deduct business expenses under federal law due to the United States

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Internal Revenue Code of 1986, Section 280E to deduct business expenses to the same extent as if those expenses were not excluded from deduction for federal tax purposes and requires the cost of these deductions, as well as the cost of administering these deductions, to be paid from the Medical Use of Marijuana Fund, to the extent that funds are available in the fund for those purposes;

23. Requires a caregiver, except for a caregiver who is a parent, guardian or person having legal custody of the qualifying patient, designated to possess medical marijuana for use by a qualifying patient and administer medical marijuana to a qualifying patient who is enrolled in primary or secondary school to submit to the same background check applicable to education personnel. The background check required includes fingerprinting. It also clarifies that a parent, guardian or person having legal custody of a qualifying patient who is enrolled in school may possess medical marijuana for use by that qualifying patient and administer medical marijuana to that qualifying patient;

24. Requires the Department of Health and Human Services to consult with statewide associations representing licensed medical professionals to develop and provide educational materials related to medical marijuana; and

25. Corrects cross-references and terms in the Maine Medical Use of Marijuana Act to conform to the Maine Revised Statutes, Title 28-B, Adult Use Marijuana, as enacted in Public Law 2017, chapter 409. It also provides for the change in the terms "primary caregiver" and "registered primary caregiver" to "caregiver" and "registered caregiver," respectively.

LD 1612 An Act To Support Maine Families through Universal Family Care

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GATTINE D BELLOWS S	ONTP	

This bill was carried over from the First Regular Session of the 128th Legislature to the Second Regular Session.

This bill establishes the Universal Family Care Program of universal child care and in-home and community support services for all individuals and families who are eligible. Eligibility for universal child care is based on the age of the child, and eligibility for in-home and community support services is based on medical eligibility. Income is not a factor for eligibility. The bill establishes the Universal Family Care Trust Fund, which is managed by a board composed of members who represent child care providers, home care agencies, employees of child care providers and home care agencies and consumers of child care and home care services. The board employs professional staff and receives advice from an advisory committee composed of the Commissioner of Health and Human Services, the Commissioner of Education and the Commissioner of Labor as well as the Treasurer of State, the President of the Senate and the Speaker of the House of Representatives. Base funding for universal child care is from child care funds from the Temporary Assistance for Needy Families program and the federal Child Care and Development Fund block grant. Base funding for universal in-home and community support services is from federal matching funding related to home and community support services and state funding for elder services provided in the home.

To complete the funding for the Universal Family Care Program, the Department of Administrative and Financial Services, Bureau of Revenue Services is directed to develop and submit to the Joint Standing Committee on Health and Human Services draft legislation to establish universal family care taxes. The taxes are to be structured to include three elements: a tax on wages that is substantially equivalent to the federal Social Security's Old-Age, Survivors, and Disability Insurance program tax, but that applies only to earnings above the annual contribution and benefit base of the federal tax; a self-employment tax applicable to taxpayers who are subject to the federal Self-Employment Contributions Act tax that is equivalent to that tax and applies to net earnings above the annual limit subject to taxation under that federal tax; and a tax equal to the wage and self-employment taxes that is imposed on unearned annual income and that applies in a manner similar to the federal Net Investment Income Tax. The bill directs the Joint Standing Committee on Health and Human Services to report out a bill to the Second