

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 SELECT COMMITTEE ON MARIJUANA
LEGALIZATION IMPLEMENTATION**

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.

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establishment or retail marijuana social club;

7. Authorize a nonprofit medical marijuana dispensary to reorganize as a for-profit entity; and

8. Increase the sales tax on retail marijuana and marijuana products from 10% to 20%.

LD 1596 An Act To Establish the Cannabis Advisory Commission

**Leave to Withdraw
Pursuant to Joint
Rule**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JORGENSEN E DESCHAMBAULT S		

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

The bill establishes the Cannabis Advisory Commission for the purpose of conducting a continuing study of the laws related to cannabis.

LD 1650 An Act To Amend the Marijuana Legalization Act

Veto Sustained

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP OTP-AM ONTP	S-345 KATZ R

This bill was reported by the committee pursuant to joint order H.P. 96. The bill, which is the majority report of the committee, implements the recommendations of the committee regarding the development and administration of a regulated marketplace in the State for adult use marijuana and the regulation of the personal use of marijuana and the home cultivation of marijuana for personal adult use pursuant to the Marijuana Legalization Act, as approved by the voters at referendum in November 2016.

Part A of the bill repeals the Marijuana Legalization Act, as codified in the Maine Revised Statutes, Title 7, chapter 417, and recodifies it as the Marijuana Legalization Act, referred to in this summary as "the Act," in a new Title 28-B, Adult Use Marijuana, while retaining the substance of the original Act with the following changes.

1. The term "adult use marijuana" is used instead of the term "retail marijuana."
2. It clarifies the distinction between and provides definitions for the terms "marijuana plant," "mature marijuana plant," "immature marijuana plant" and "seedling."
3. It clarifies that any conduct relating to the possession, cultivation, manufacture, testing, consumption, sale or offering for sale of marijuana or marijuana products that is not specifically authorized under the Act, pursuant to a license issued under the Act or pursuant to the Maine Medical Use of Marijuana Act is not authorized and that a person who engages in such unauthorized conduct is subject to penalties under the Act and any additional criminal or civil penalties that may be imposed under other applicable laws or rules.
4. It retains the division of regulatory authority regarding the regulation of adult use marijuana enacted as

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Public Law 2017, chapter 278, whereby the Department of Administrative and Financial Services, referred to in this summary as "the department," is designated as the primary regulatory authority in the implementation, administration and enforcement of the Act, with the Department of Agriculture, Conservation and Forestry retaining regulatory authority concerning the cultivation, manufacture, testing, packaging and labeling of adult use marijuana and adult use marijuana products.

5. It further clarifies the roles and authorities, including the respective rule-making authorities, of the department and the Department of Agriculture, Conservation and Forestry in the implementation, administration and enforcement of the Act and provides for the provisional adoption of major substantive rules pursuant to the Act by each department and the submission of those rules to the Legislature for review pursuant to the Maine Administrative Procedure Act on or before March 15, 2018.

6. It requires the department to implement and administer a tracking system for adult use marijuana from immature marijuana plant to the point of retail sale, disposal or destruction.

7. It requires the department to facilitate the collection and analysis of public health and safety data relating to the effects of the use of marijuana in the State.

8. It requires the department to facilitate the development and implementation of programs, initiatives and campaigns focused on increasing the awareness of and educating the public on health and safety matters relating to the use of marijuana and marijuana products. Such programs, initiatives and campaigns may be funded with a portion of the excise tax and sales tax revenues resulting from the sale of adult use marijuana and adult use marijuana products.

9. It requires the department to facilitate the development and implementation of programs or initiatives providing enhanced training for criminal justice agencies in the requirements and enforcement of the Act. Such programs and initiatives may be funded with a portion of the excise tax and sales tax revenues resulting from the sale of adult use marijuana and adult use marijuana products.

10. It requires the department and the Department of Agriculture, Conservation and Forestry to submit to the Legislature an annual report, beginning February 15, 2019, which must include specific information and data relating to the regulated market for adult use marijuana in the State.

11. It implements a moratorium on the issuance of adult use marijuana social club licenses until June 1, 2019 but provides for the regulation of licensed adult use marijuana social clubs after that date.

12. It removes from the former Marijuana Legalization Act provisions relating to the issuance of occupational licenses.

13. It clarifies general licensing criteria for applicants seeking to operate an adult use marijuana establishment, which include a two-year residency requirement and specific additional licensing requirements applicable to the licensing of adult use marijuana cultivation facilities. It removes from the former Marijuana Legalization Act provisions relating to preference in licensure for medical marijuana caregivers and medical marijuana dispensaries. It removes from the former Marijuana Legalization Act the caps on the number of each license type that may be issued, except that it:

A. Limits the number of marijuana store licenses in common ownership to four marijuana store licenses, but repeals that limitation January 1, 2021; and

B. Limits the number of cultivation facility licenses in common ownership to three cultivation facility licenses

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not exceeding a combined licensed plant canopy of 30,000 square feet.

14. It separates within the Act the state-level and municipal-level licensing and approval processes for adult use marijuana establishments. An applicant for a license to operate an adult use marijuana establishment must submit an application along with the required application fee to the department, which, after review, conditionally may approve the license. The licensee may then seek municipal authorization from the municipality in which the licensee proposes to operate the marijuana establishment. A municipality, which includes towns, cities and plantations, by adopted ordinance may regulate marijuana establishments within the municipality, including, but not limited to, through the adoption of:

- A. Land use regulations applicable to marijuana establishments within the municipality;
- B. Municipal licensing requirements applicable to marijuana establishments within the municipality that may include the imposition of municipal approval or license fees; and
- C. Limitations on the number of any type of marijuana establishment that may be approved or licensed to operate within the municipality.

A municipality may not authorize the operation of a marijuana establishment within the municipality unless the legislative body of the municipality has voted to generally authorize some or all types of marijuana establishments within the municipality, including that type of marijuana establishment. A person that has been issued a conditional license by the department may not request municipal authorization to operate a marijuana establishment within a municipality unless the legislative body of the municipality has voted to generally authorize some or all types of marijuana establishments within the municipality, including that type of marijuana establishment. Once the department receives certification of municipal authorization and the applicant pays the applicable license fee and submits any additional required documentation, the department must issue an active license, good for a term of one year from the date of issuance. A licensee may not engage in the cultivation, manufacture, testing, sale or offering for sale of marijuana or marijuana products until the licensee has been issued an active license by the department.

15. It revises and clarifies the application process for issuance and renewal of a state license to operate an adult use marijuana establishment, including revision of the application and license fees to be imposed by the department under the Act.

16. It revises the manner in which cultivation facilities are to be licensed and regulated by removing the statewide limitation on the total amount of licensed plant canopy and by authorizing five tiers of cultivation facility license types, the smallest of which, a tier 1 license, provides for the cultivation of up to 30 mature marijuana plants or up to 500 square feet of plant canopy and the largest of which, a tier 4 license, provides for the cultivation of up to 30,000 square feet of plant canopy. It also creates a nursery cultivation facility license tier, which allows for the cultivation of immature plants, seedlings and seeds and the sale of those immature plants, seedlings and seeds to other licensees and to consumers. A licensee seeking renewal of a tier 4 license may seek approval from the department to expand the area of plant canopy authorized under the license by 10,000 square feet, so long as certain criteria are met.

17. It clarifies operational requirements for each type of adult use marijuana establishment, including:

- A. Providing for the payment of an excise tax by cultivation facilities on the adult use marijuana sold to other licensees;
- B. Providing for the collection and remittance of a sales tax by marijuana stores and marijuana social clubs on

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adult use marijuana and adult use marijuana products sold to consumers;

C. Specifying standards for the extraction of marijuana concentrate by products manufacturing facilities;

D. Specifying standards for the tracking of adult use marijuana and adult use marijuana products by each type of adult use marijuana establishment;

E. Specifying standards for the sharing of facilities for the cultivation, manufacturing or sale of adult use marijuana and adult use marijuana products and marijuana and marijuana products for medical use by a licensee that is also a registered primary caregiver or registered dispensary;

F. Requiring compliance by licensees with applicable packaging, labeling and health and safety requirements;

G. Incorporating standards and requirements applicable to testing facilities as enacted in Public Law 2017, chapter 309;

H. Clarifying sales authorizations and prohibitions applicable to marijuana stores and marijuana social clubs, including prohibitions on drive-through sales, sales by use of a delivery service, sales by use of an automated vending machine and Internet sales;

I. Providing that the smoking of marijuana or marijuana products at a marijuana social club is prohibited in accordance with state law regarding smoking in public places and public areas; and

J. Prohibiting the employment of any person under 21 years of age by any adult use marijuana establishment.

18. It clarifies and expands upon the standards and requirements for the testing of adult use marijuana and adult use marijuana products; the packaging, labeling and health and safety of adult use marijuana and adult use marijuana products; and the use of signs, advertising and marketing relating to adult use marijuana and adult use marijuana products.

19. It provides for the imposition by the department of monetary penalties on a licensee or suspensions or revocations of a licensee's license for a violation of the Act, in accordance with the Maine Administrative Procedure Act, and limits the amount of such monetary penalties imposed to not more than \$10,000 per minor license violation, not more than \$50,000 per major license violation and not more than \$100,000 per major license violation affecting public safety.

20. It establishes the Marijuana Advisory Commission for the purpose of conducting a continuing study of the laws relating to marijuana and reporting to the Legislature its findings and recommendations on an annual basis.

21. It imposes an excise tax on adult use marijuana to be paid by cultivation facilities on adult use marijuana sold to other licensees. The excise tax is imposed in the following amounts:

A. For marijuana flower or mature marijuana plants, \$130 per pound;

B. For marijuana trim, \$36.29 per pound;

C. For each immature marijuana plant or seedling, \$1.50; and

D. For each marijuana seed, \$0.30.

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22. It provides that monthly, a cultivation facility licensee must pay directly to the municipality in which the cultivation facility is located 5% of the excise tax payments required under the Act during the prior month. All other revenue resulting from the imposition of the excise tax on adult use marijuana under the Act must be deposited into the General Fund, except that:

A. One percent of the total monthly other excise tax revenue generated statewide must be distributed in equal amounts to each municipality that had a cultivation facility, products manufacturing facility, marijuana store or marijuana social club in operation within the municipality during the prior month; and

B. Twelve percent of the remaining total monthly other excise tax revenue after the distribution to municipalities under paragraph A must be transferred to the Adult Use Marijuana Public Health and Safety Fund.

23. It establishes the Adult Use Marijuana Public Health and Safety Fund, which is primarily funded through dedicated excise and sales tax revenue from the sale of adult use marijuana and adult use marijuana products, to be used by the department to facilitate public health and safety awareness and education programs, initiatives, campaigns and activities and enhanced law enforcement training programs for local, county and state law enforcement officers.

24. It eliminates the Retail Marijuana Regulatory Coordination Fund, which was created and funded through the enactment of Public Law 2017, chapter 278, and transfers its remaining balances to the new Adult Use Marijuana Regulatory Coordination Fund.

25. It affects the provisions of the former Marijuana Legalization Act relating to the personal use of marijuana and marijuana products and the home cultivation of marijuana for personal adult use by:

A. Retaining the provisions of the former Marijuana Legalization Act authorizing a person 21 years of age or older to purchase from a marijuana store or, where applicable, from a marijuana social club and possess for personal use up to 2 1/2 ounces of marijuana or 2 1/2 ounces of a combination of marijuana and marijuana concentrate that includes no more than five grams of marijuana concentrate;

B. Clarifying language regarding the transfer or furnishing of marijuana or marijuana products, without remuneration, to another person to specify that remuneration includes a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which marijuana or marijuana products are transferred or furnished by that person to another person;

C. Authorizing a person 21 years of age or older to purchase up to 12 immature marijuana plants or seedlings from a marijuana store or a nursery cultivation facility;

D. Clarifying the provisions relating to the home cultivation of marijuana for personal adult use by authorizing a person 21 years of age or older to grow and harvest the marijuana produced by up to six mature marijuana plants, up to 12 immature marijuana plants and an unlimited number of seedlings at that person's place of residence, on a parcel or tract of land owned by that person or on a parcel or tract of land owned by another person with the written permission of that owner. It provides, however, that no more than 12 mature marijuana plants may be cultivated for personal adult use on any one parcel or tract of land, except when the parcel or tract of land is located in a municipality that has, by adopted ordinance, authorized the cultivation of more than 12 mature marijuana plants for personal adult use but not more than 18 mature marijuana plants for personal adult use. These limitations on home cultivation of marijuana for personal adult use do not apply to the cultivation of marijuana for medical use by a qualifying patient, a primary caregiver, a registered primary

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caregiver or a registered dispensary under the Maine Medical Use of Marijuana Act;

E. Retaining the provisions relating to the consumption of marijuana and marijuana products as enacted by Public Law 2017, chapter 1; and

F. Prohibiting the home extraction of marijuana concentrate by use of inherently hazardous substances.

Part B of the bill provides that possession of drug paraphernalia, as prohibited under the Maine Revised Statutes, Title 17-A, section 1111-A, does not apply to drug paraphernalia relating to the adult use of marijuana by a person as authorized under the Act or to drug paraphernalia relating to the sale or offering for sale of marijuana by a licensed adult use marijuana store or adult use marijuana social club. Part B also amends the law concerning the Department of Public Safety, Bureau of State Police, State Bureau of Identification as necessary for the State Police and the State Bureau of Identification to conduct criminal history record checks on applicants for a license to operate an adult use marijuana establishment and on other persons as required under the Act.

Part C of the bill amends the State's laws governing municipal powers and duties to provide that plantations have the same powers and duties as cities and towns under the Act.

Part D of the bill amends the tax laws as follows.

1. It provides for a 10% sales tax on adult use marijuana and adult use marijuana products to be imposed at the point of final sale to a consumer by a marijuana store or marijuana social club.

2. It stipulates that all the revenue resulting from the imposition of the sales tax on adult use marijuana and adult use marijuana products must be deposited into the General Fund, except that:

A. Five percent of all monthly tax revenue generated within a municipality by all marijuana stores and marijuana social clubs within that municipality must be distributed to that municipality;

B. One percent of the total monthly tax revenue generated statewide must be distributed in equal amounts to each municipality that had a cultivation facility, products manufacturing facility, marijuana store or marijuana social club in operation within the municipality during the prior month; and

C. Twelve percent of the remaining total monthly tax revenue after the distribution to municipalities under paragraphs A and B must be transferred to the Adult Use Marijuana Public Health and Safety Fund.

Part E of the bill adds an appropriations and allocations section.

Committee Amendment "A" (H-570)

This amendment, which is one of two minority reports of the committee, amends the bill as follows.

1. It limits the scope of the term "plant canopy" to include only those areas dedicated to the live cultivation of mature marijuana plants and stipulates the method by which the area of plant canopy is to be calculated.

2. It reduces the maximum allowable area of plant canopy under each tier of cultivation facility license in the bill as follows:

A. For a tier 1 cultivation facility license, it reduces the maximum allowable area of plant canopy from 500 square feet to 335 square feet;

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B. For a tier 2 cultivation facility license, it reduces the maximum allowable area of plant canopy from 3,000 square feet to 2,010 square feet;

C. For a tier 3 cultivation facility license, it reduces the maximum allowable area of plant canopy from 10,000 square feet to 6,700 square feet; and

D. For a tier 4 cultivation facility license, it reduces the maximum allowable area of plant canopy from 30,000 square feet to 20,100 square feet.

It does not change the maximum allowable area of plant canopy under a nursery cultivation facility license. It does not change the license fee amounts for cultivation facilities in the bill.

3. It reduces the area of plant canopy by which a tier 4 cultivation facility license may be increased every two years from 10,000 square feet to 6,700 square feet.

4. It removes from the bill the imposition of a cultivation tax on the adult use marijuana sold by a cultivation facility to a products manufacturing facility, a marijuana store or another cultivation facility.

5. It increases the sales tax imposed on the sale of adult use marijuana and adult use marijuana products by a marijuana store or marijuana social club to a consumer from 10% to 20%.

6. It prohibits the use of a shared cultivation facility for the cultivation of adult use marijuana and marijuana for medical use by a cultivation facility licensee that is also a registered primary caregiver or registered dispensary.

7. It prohibits the use of a shared products manufacturing facility for the manufacture of adult use marijuana and adult use marijuana products and marijuana and marijuana products for medical use by a products manufacturing facility licensee that is also a registered primary caregiver or registered dispensary.

8. It prohibits the use of a shared retail facility for the sale of adult use marijuana and adult use marijuana products and marijuana and marijuana products for medical use by a marijuana store or marijuana social club licensee that is also a registered primary caregiver or registered dispensary.

9. It makes a number of technical corrections to the bill to incorporate these changes to the bill.

10. It adds an appropriations and allocations section to the bill.

House Amendment "A" (H-571)

This amendment strikes the bill in its entirety and instead further delays, until July 1, 2018, the effective date of those provisions of the Marijuana Legalization Act that were delayed until February 1, 2018 by Public Law 2017, chapter 1.

This amendment was not adopted.

Senate Amendment "A" (S-345)

This amendment removes the emergency preamble and emergency clause.