

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND SEVENTEEN

H.P. 66 - L.D. 88

**An Act To Delay the Implementation of Certain Portions of the Marijuana
Legalization Act**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, implementing a system for the regulation and administration of the cultivation, distribution and retail sale of recreational marijuana, a controlled substance, is a complex function with significant financial costs; and

Whereas, ensuring that possession and use of recreational marijuana is limited to persons who are 21 years of age and older is necessary to protect those who have not yet reached adulthood from the potential negative effects of irresponsible use of a controlled substance; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §2442, sub-§5, as enacted by IB 2015, c. 5, §1, is repealed.

Sec. 2. 7 MRSA §2442, sub-§22, as enacted by IB 2015, c. 5, §1, is amended to read:

22. Marijuana. "Marijuana" means ~~cannabis~~ the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not.

Sec. 3. 7 MRSA §2442, sub-§22-A is enacted to read:

22-A. Marijuana concentrate. "Marijuana concentrate" means the resin extracted from any part of the plant genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including hashish. In determining the

weight of marijuana concentrate, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included.

Sec. 4. 7 MRSA §2442, sub-§34, as enacted by IB 2015, c. 5, §1, is amended to read:

34. Retail marijuana. "Retail marijuana" means ~~cannabis~~ marijuana or marijuana concentrate that is cultivated, manufactured, distributed or sold by a licensed retail marijuana establishment or retail marijuana social club.

Sec. 5. 7 MRSA §2443, as enacted by IB 2015, c. 5, §1, is repealed.

Sec. 6. 7 MRSA §2444, sub-§2, as enacted by IB 2015, c. 5, §1, is amended to read:

2. Adoption of rules. The state licensing authority shall adopt rules for the proper regulation and control of the cultivation, manufacture, distribution, sale and testing of retail marijuana and retail marijuana products and for the enforcement of this chapter, not later than 9 months after the effective date of this Act, and shall adopt amended rules and such special rules and make findings as necessary. For the purpose of adopting rules pursuant to this subsection, the commissioner may delegate rule-making authority granted under this section to the Commissioner of Administrative and Financial Services or the Commissioner of Public Safety, or both, if the commissioner determines that the expertise and resources of those other departments would be beneficial in the development of the rules and the enforcement of those rules. These rules are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A. Rules must address but are not limited to the following issues:

- A. The hearing of contested state license denials at a public hearing, employing full due process, including the subpoena power, the taking of oaths, the calling of witnesses and the maintaining of the confidentiality of customer records. Provision must be made for the conduct of appeal hearings following license actions, including, but not limited to, the denial of a license renewal or of an initial license and license revocation and suspension, and hearings contesting the imposition of a fine;
- B. The development of such forms, licenses, identification cards and applications as necessary for the administration of this chapter or of any of the rules adopted under this chapter;
- C. The preparation and transmission annually, in the form and manner prescribed by this chapter, of a report to the Legislature accounting for the efficient discharge of all responsibilities assigned by law or rules to the state licensing authority;
- D. Procedures consistent with this chapter for the issuance, renewal, suspension and revocation of licenses to operate retail marijuana establishments;
- E. Limits on the concentration of THC and other cannabinoids per serving in any retail marijuana product;

F. Qualifications for licensure including, but not limited to, the requirement for a fingerprint-based criminal history record check for all owners, officers, managers, employees and other support staff of entities licensed pursuant to this chapter;

G. Security requirements for any licensed premises under this chapter including, at a minimum, lighting, physical security, alarm requirements and other minimum procedures for internal control as determined necessary by the state licensing authority to properly administer and enforce the provisions of this chapter, including reporting requirements for changes, alterations or modifications to the licensed premises. Security requirements may not be unreasonably impracticable; and

H. Securing and recording permission for a local fire department or the State Fire Marshal to conduct an annual fire inspection of a retail marijuana cultivation facility.

Sec. 7. 7 MRSA §2445, first ¶, as enacted by IB 2015, c. 5, §1, is amended to read:

~~The Beginning February 1, 2018, the~~ state licensing authority shall establish, within a specific time frame, a retail marijuana and retail marijuana products independent testing and certification program. This program must require licensees to test retail marijuana and retail marijuana products to ensure at a minimum that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

Sec. 8. 7 MRSA §2446, sub-§5 is enacted to read:

5. Effective date. This section takes effect February 1, 2018.

Sec. 9. 7 MRSA §2447, first ¶, as enacted by IB 2015, c. 5, §1, is amended to read:

~~An Beginning February 1, 2018, an~~ application for a license under the provisions of this chapter must be made to the state licensing authority on forms prepared and furnished by the state licensing authority and must set forth such information as the state licensing authority may require to enable the state licensing authority to determine whether a license should be granted. The information must include the name and address of the applicant and the names and addresses of the applicant's officers, directors or managers. Each application must be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe. The state licensing authority may issue a license to an applicant pursuant to this section upon completion of the applicable criminal history record check associated with the application. The license is conditioned upon municipal approval. An applicant is prohibited from operating a retail marijuana establishment or retail marijuana social club without state licensing authority and municipal approval. If the applicant does not receive municipal approval within one year from the date of state licensing authority approval, the license expires and may not be renewed. If an application is not approved by the municipality, the state licensing authority shall revoke the license.

Sec. 10. 7 MRSA §2448, sub-§19 is enacted to read:

19. Effective date. This section takes effect February 1, 2018.

Sec. 11. 7 MRSA §2449, sub-§6 is enacted to read:

6. Effective date. This section takes effect February 1, 2018.

Sec. 12. 7 MRSA §2450, first ¶, as enacted by IB 2015, c. 5, §1, is amended to read:

A Beginning February 1, 2018, a license granted under the provisions of this chapter is not transferable except as provided in this section, but this section does not prevent a change of location as provided in section 2451, subsection 7.

Sec. 13. 7 MRSA §2451, first ¶, as enacted by IB 2015, c. 5, §1, is amended to read:

~~The~~ Beginning February 1, 2018, the following provisions govern licensing in general.

Sec. 14. 7 MRSA §2452, sub-§1, as enacted by IB 2015, c. 5, §1, is amended to read:

1. Person 21 years of age or older. A person 21 years of age or older may:

A. Use, possess or transport marijuana accessories and use, possess or transport up to 2 1/2 ounces of prepared marijuana or a combination of marijuana and marijuana concentrate, which may include no more than 5 grams of marijuana concentrate;

B. Transfer or furnish, without remuneration, up to 2 1/2 ounces of marijuana or a combination of marijuana and marijuana concentrate, which may include no more than 5 grams of marijuana concentrate, and up to 6 immature plants or seedlings to a person who is 21 years of age or older;

C. Possess, grow, cultivate, process or transport up to 6 flowering marijuana plants, 12 immature plants and unlimited seedlings, and possess all the marijuana produced by the plants at the adult's residence;

D. ~~Purchase~~ Beginning February 1, 2018, purchase up to 2 1/2 ounces of retail marijuana and marijuana accessories from a retail marijuana store; and

E. ~~Purchase~~ Beginning February 1, 2018, purchase up to 12 seedlings or immature plants from a retail marijuana cultivation facility.

Sec. 15. 7 MRSA §2452, sub-§5, as enacted by IB 2015, c. 5, §1, is repealed.

Sec. 16. 7 MRSA §2452, sub-§§6 and 7 are enacted to read:

6. Personal use; violation. The following provisions apply to the personal consumption of marijuana and marijuana concentrate.

A. A person 21 years of age or older may consume marijuana or marijuana concentrate only if that person is:

(1) In a private residence, including curtilage; or

(2) On private property, not generally accessible by the public, and the person is explicitly permitted to consume marijuana or marijuana concentrate on the property by the owner of the property.

B. The operator of a vehicle on a public way or a passenger in the vehicle may not consume marijuana or marijuana concentrate. As used in this paragraph, "vehicle" has the same meaning as in Title 29-A, section 101, subsection 91.

C. A person may not consume marijuana or marijuana concentrate in a private residence or on private property used as a day care or baby-sitting service during the hours in which the residence or property is being operated as a day care or baby-sitting service.

D. A person may not consume marijuana or marijuana concentrate in a designated smoking area as provided under the Workplace Smoking Act of 1985.

A person who violates this subsection commits a civil violation for which a fine of not more than \$100 may be adjudged. This subsection may not be construed to shield any person from federal prosecution. This subsection may not be construed to allow any person to possess or consume marijuana on federal property.

7. Possession of certain edibles. Notwithstanding subsection 1, until February 1, 2018, a person may not possess edible retail marijuana products. This subsection does not apply to marijuana products purchased for medical use pursuant to Title 22, chapter 558-C.

Sec. 17. 7 MRSA §2453, sub-§4 is enacted to read:

4. Effective date. This section takes effect February 1, 2018.

Sec. 18. 7 MRSA §2454, sub-§5 is enacted to read:

5. Effective date. This section takes effect February 1, 2018.

Sec. 19. 15 MRSA §3103, sub-§1, ¶B, as amended by PL 2011, c. 464, §3, is further amended to read:

B. Offenses involving illegal drugs or drug paraphernalia as follows:

(1) The possession of a useable amount of marijuana, as provided in Title 22, section 2383, subsection 1-A, unless the juvenile is authorized to possess marijuana for medical use pursuant to Title 22, chapter 558-C;

(2) The use or possession of drug paraphernalia as provided in Title 17-A, section 1111-A, subsection 4-B; and

(3) Illegal transportation of drugs by a minor as provided in Title 22, section 2389, subsection 2;

Sec. 20. 22 MRSA §2383, sub-§1-A is enacted to read:

1-A. Marijuana possession by a person under 21 years of age. Except for possession of marijuana for medical use pursuant to chapter 558-C, a person who is under 21 years of age may not possess marijuana. A person who is 18, 19 or 20 years of age who possesses a usable amount of marijuana commits a civil violation for which a fine of not less than \$350 and not more than \$600 must be adjudged for possession of up to 1 1/4 ounces of marijuana and a fine of not less than \$700 and not more than \$1,000 must be adjudged for possession of over 1 1/4 ounces to 2 1/2 ounces of marijuana, none of which may be suspended. For the purposes of this section, marijuana has the same meaning as in Title 17-A, section 1101, subsection 1.

Sec. 21. 36 MRSA §1817, sub-§8 is enacted to read:

8. Effective date. This section takes effect February 1, 2018.

Sec. 22. Retroactivity. This Act applies retroactively to January 30, 2017.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.