



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1135

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H.P. 798

House of Representatives, March 23, 2017

### An Act To Strengthen the Efficacy of the Medical Marijuana Laws

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Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative CHACE of Durham.  
Cosponsored by Representatives: DENNO of Cumberland, FARRIN of Norridgewock,  
GILLWAY of Searsport, HARRINGTON of Sanford, PICCHIOTTI of Fairfield, PIERCE of  
Dresden, SAMPSON of Alfred, Senator: LIBBY of Androscoggin.

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

2 **Sec. 1. 22 MRSA §2422, sub-§1-A**, as enacted by PL 2011, c. 407, Pt. B, §1, is  
3 amended to read:

4 **1-A. Collective.** "Collective" means an association, cooperative, affiliation or group  
5 of primary caregivers who ~~physically~~ assist, physically or by electronic or any other  
6 means, each other in the act of cultivation, processing, marketing or distribution of  
7 marijuana for medical use for the benefit of the members of the collective. There is a  
8 rebuttable presumption that a collective is created if 6 or more primary registered  
9 caregivers are located on the same parcel of land.

10 **Sec. 2. 22 MRSA §2423-A, sub-§2, ¶C**, as amended by PL 2013, c. 516, §6, is  
11 further amended to read:

12 C. Assist a maximum of 5 patients who have designated the primary caregiver for a  
13 period of one calendar month or more to cultivate marijuana for their medical use;

14 **Sec. 3. 22 MRSA §2423-A, sub-§9**, as reallocated by RR 2011, c. 1, §31, is  
15 amended to read:

16 **9. Collectives prohibited.** Collectives are prohibited under this chapter. A person  
17 may not form or participate in a collective. A person who violates this subsection loses  
18 that person's primary caregiver registration for no less than 2 years and commits a Class  
19 D crime for which a fine of not less than \$2,000 may be imposed, none of which may be  
20 suspended.

21 **Sec. 4. 22 MRSA §2423-A, sub-§13** is enacted to read:

22 **13. Local regulation.** This chapter does not prohibit a political subdivision of this  
23 State from limiting the number of registered primary caregivers that may operate in the  
24 political subdivision or from enacting reasonable regulations applicable to primary  
25 caregivers.

26 **Sec. 5. 22 MRSA §2425, sub-§8, ¶A**, as amended by PL 2013, c. 516, §13, is  
27 further amended to read:

28 A. Applications and supporting information submitted by qualifying patients and  
29 registered patients under this chapter, ~~including information regarding their primary~~  
30 ~~caregivers and medical providers~~, are confidential.

31 **Sec. 6. 22 MRSA §2425, sub-§8, ¶B**, as amended by PL 2013, c. 516, §13, is  
32 further amended to read:

33 B. Applications and supporting information submitted by ~~primary caregivers and~~  
34 ~~medical providers~~ operating in compliance with this chapter are confidential.

35 **Sec. 7. 22 MRSA §2425, sub-§8, ¶B-1** is enacted to read:

36 B-1. Upon request of a law enforcement official, a town code enforcement officer, a  
37 town planning board or any other local, state or law enforcement authority, a primary

1 caregiver shall disclose any of the information contained in applications and  
2 supporting information submitted to the department with the exception of information  
3 that identifies a qualifying patient, a registered patient and the registered patient's  
4 medical provider. Information that identifies a qualifying patient, a registered patient  
5 and the registered patient's medical provider is confidential.

6 **Sec. 8. 22 MRSA §2425, sub-§8, ¶F**, as amended by PL 2013, c. 516, §13, is  
7 further amended to read:

8 F. Applications, supporting information and other information regarding a registered  
9 dispensary are not confidential except that information that is contained within  
10 dispensary information that identifies a qualifying patient, a registered patient; and  
11 the registered patient's medical provider and the primary caregiver of the qualifying  
12 patient or registered patient is confidential.

13 **Sec. 9. 22 MRSA §2430-A**, as amended by PL 2015, c. 475, §26, is repealed and  
14 the following enacted in its place:

15 **§2430-A. Compliance**

16 **1. Compliance; testing.** The department may take action necessary to ensure  
17 compliance with this chapter, including, but not limited to, obtaining, possessing and  
18 performing laboratory testing on marijuana from registered primary caregivers and  
19 registered dispensaries in accordance with this chapter.

20 **2. Registered primary caregiver penalties.** A registered primary caregiver who  
21 fails to comply with the provisions of this chapter commits a civil violation for which a  
22 fine of not less than \$200 and not more than \$500 must be adjudged. Each day of  
23 violation constitutes a separate offense. A person who at the time of the violation of the  
24 provisions of this chapter has been previously found to have violated this chapter  
25 commits a Class D crime.

26 **3. Registered dispensary penalties.** A registered dispensary that fails to comply  
27 with the provisions of this chapter commits a civil violation for which a fine of not less  
28 than \$500 and not more than \$1,000 must be adjudged. Each day of violation constitutes  
29 a separate offense. A registered dispensary that at the time of the violation of the  
30 provisions of this chapter has been previously found to have violated this chapter  
31 commits a Class D crime.

32 **4. Penalties for failure to register as primary caregiver.** A person who fails to  
33 register as a primary caregiver and who engages in conduct that is only authorized for a  
34 registered primary caregiver in accordance with this chapter commits a civil violation for  
35 which a fine of not less than \$500 and not more than \$1,000 must be adjudged. Each day  
36 of violation constitutes a separate offense. A person who at the time of the violation of  
37 the provisions of this chapter has been previously found to have violated this chapter  
38 commits a Class D crime.

39 **5. Penalties for failure to register as a dispensary.** A person, firm, partnership,  
40 association, corporation or other entity that fails to register as a dispensary and that  
41 engages in conduct that is only authorized for a registered dispensary in accordance with

1 this chapter commits a civil violation for which a fine of not less than \$1,000 and not  
2 more than \$5,000 must be adjudged. Each day of violation constitutes a separate offense.  
3 A person, firm, partnership, association, corporation or other entity that at the time of the  
4 violation of the provisions of this chapter has been previously found to have violated this  
5 chapter commits a Class D crime.

6 **6. Injunctive relief.** Notwithstanding any other remedies provided by law, the  
7 Office of the Attorney General may seek an injunction to require a registered primary  
8 caregiver, a registered dispensary, a person who fails to register as a primary caregiver  
9 and who engages in conduct that is only authorized for a registered primary caregiver or a  
10 person or entity that fails to register as a dispensary and that engages in conduct that is  
11 only authorized for a registered dispensary to comply with the provisions of this chapter.  
12 When an injunction has been issued in accordance with this chapter, the District Court  
13 may order the registered primary caregiver, the registered dispensary or the person or  
14 entity subject to the injunction to pay to the General Fund the costs of the investigation  
15 incurred by the Office of the Attorney General and the costs of suit, including attorney's  
16 fees.

17 **7. Violation of injunction.** The Office of the Attorney General may seek court  
18 action against a registered primary caregiver, a registered dispensary or a person or entity  
19 for violation of the terms of an injunction issued under subsection 6. The District Court  
20 may make the necessary orders or judgments regarding violation of the terms of the  
21 injunction, including but not limited to imposition of a fine of not less than \$500 nor  
22 more than \$1,000 for each violation. Each day of violation constitutes a separate offense.

23 **8. Burden of proof.** The department must prove by a preponderance of the evidence  
24 that the alleged violations of this chapter occurred.

25 **Sec. 10. Appropriations and allocations.** The following appropriations and  
26 allocations are made.

27 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)**

28 **Medical Use of Marijuana Fund Z118**

29 Initiative: Provides funding for one Office Associate II position to handle additional  
30 clerical duties expected with a change in the limit on the number of patients a primary  
31 caregiver can serve.

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33	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2017-18</b>	<b>2018-19</b>
34	POSITIONS - LEGISLATIVE COUNT	1,000	1,000
35	Personal Services	\$44,869	\$61,854
36	All Other	\$4,709	\$6,278
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38	<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$49,578</b>	<b>\$68,132</b>

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## SUMMARY

This bill makes the following changes to the Maine Medical Use of Marijuana Act:

1. The limit on the number of qualifying patients a primary caregiver may assist is clarified to be for a period of one calendar month or more;
2. The definition of a collective is strengthened;
3. The penalties for participation in a collective are enhanced;
4. A level of local control is provided by allowing a municipality to limit the number of primary caregivers that may operate within that municipality and allowing for enactment of reasonable municipal regulations applicable to primary caregivers;
5. The confidentiality provisions of primary caregivers are removed;
6. 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;
7. Fines prescribed for violations of the Act are mandatory;
8. 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;
9. 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
10. The Department of Health and Human Services' burden of proof for a violation of the Act is a preponderance of the evidence.

The bill also includes an appropriations and allocations section.