

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 1236 - L.D. 1738

An Act Regarding Medical Marijuana

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

Whereas, access to specialized marijuana strains and products is important to the well-being of qualifying patients; and

Whereas, it is difficult for qualifying patients to find specialized marijuana strains and products in rural areas of the State; and

Whereas, this legislation will enable caregivers and dispensaries to provide specialized marijuana strains and products to qualifying patients; and

Whereas, the growing season is already underway and is of short duration; 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. 22 MRSA §569 is enacted to read:

§569. Marijuana testing facility certification program and fund established

1. Program established. The Department of Administrative and Financial Services, in consultation with the Maine Center for Disease Control and Prevention, shall establish within the Maine Center for Disease Control and Prevention a laboratory certification program, referred to in this section as "the certification program," for the testing of medical and adult use marijuana in accordance with chapter 558-C and Title 28-B.

2. Rules. The Department of Administrative and Financial Services, in consultation with the Maine Center for Disease Control and Prevention, shall adopt rules for the

certification of a marijuana testing facility under chapter 558-C and a testing facility under Title 28-B, which must include a certification fee schedule. The annual fee for certifying a marijuana testing facility under chapter 558-C or a testing facility under Title 28-B may not exceed \$2,500 per year. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Fund established. The Marijuana Testing Facility Certification Fund, referred to in this section as "the fund," is established as an Other Special Revenue Funds account in the Maine Center for Disease Control and Prevention for the purposes specified in this subsection.

A. The State Controller shall credit to the fund:

(1) All money received as a result of fees assessed by the Maine Center for Disease Control and Prevention under the certification program;

(2) All money from any other source, whether public or private, designated for deposit into or credited to the fund; and

(3) Interest earned or other investment income on balances in the fund.

B. The fund may be used for expenses of the Maine Center for Disease Control and Prevention to administer the certification program.

C. By January 15, 2021 and every 2 years thereafter, the Department of Administrative and Financial Services, in consultation with the Maine Center for Disease Control and Prevention, shall review the balance in the fund. If the balance in the fund exceeds \$200,000, the Department of Administrative and Financial Services, in consultation with the Maine Center for Disease Control and Prevention, shall adopt rules to reduce the fees established under subsection 2 for a 2-year period beginning with the calendar year following the review.

Sec. 2. 22 MRSA §2423-A, sub-§2, ¶K-1, as enacted by PL 2017, c. 452, §4, is amended to read:

K-1. Transfer to and accept from another registered caregiver or a dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A registered caregiver may transfer in wholesale transactions for reasonable compensation or for no remuneration up to ~~30%~~ 75% of the mature marijuana plants grown by the caregiver over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that ~~30%~~ 75% of the mature marijuana plants grown by the caregiver. A registered caregiver may transfer to or accept from other registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A registered caregiver that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this paragraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to another registered caregiver or dispensary to assist a qualifying patient;

Sec. 3. 22 MRSA §2423-A, sub-§10, ¶D, as amended by PL 2017, c. 447, §10 and c. 452, §4, is repealed and the following enacted in its place:

D. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing marijuana testing facilities, including but not limited to:

- (1) Marijuana testing facility officer or director qualification requirements;
- (2) Required security for marijuana testing facilities; and
- (3) Requirements for the registration, certification or other approval of marijuana testing facilities.

The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter.

Sec. 4. 22 MRSA §2423-A, sub-§10, ¶D-1 is enacted to read:

D-1. Upon the adoption of rules pursuant to paragraph D and this paragraph, a marijuana testing facility must be certified by the certification program established pursuant to section 569 as meeting all operational and technical requirements in accordance with rules adopted by the department after consultation with the Maine Center for Disease Control and Prevention. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. A marijuana testing facility operating in compliance with this chapter on the date of the adoption of rules pursuant to this paragraph and paragraph D may continue to operate pending completion of certification under this paragraph. The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter.

Sec. 5. 22 MRSA §2423-A, sub-§10, ¶E, as enacted by PL 2017, c. 447, §10 and c. 452, §4, is repealed and the following enacted in its place:

E. A marijuana testing facility shall obtain and must be able to produce, upon demand of the department or a municipal code enforcement officer, documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body.

Sec. 6. 22 MRSA §2423-A, sub-§10, ¶F is enacted to read:

F. The department and the Maine Center for Disease Control and Prevention may inspect a marijuana testing facility during regular business hours and hours of apparent activity for compliance with this chapter.

Sec. 7. 22 MRSA §2428, sub-§1-A, ¶F, as enacted by PL 2017, c. 447, §21 and c. 452, §16, is repealed and the following enacted in its place:

F. Except as provided in section 2426:

- (1) Transfer marijuana plants and harvested marijuana to a qualifying patient and to a caregiver on behalf of a qualifying patient in a retail sale for reasonable compensation;
- (2) Transfer marijuana plants and harvested marijuana to a qualifying patient, caregiver or dispensary for no remuneration;

(3) Acquire marijuana plants and harvested marijuana from another dispensary for no remuneration;

(4) Transfer to and accept from a registered caregiver or another dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A dispensary may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 75% of the mature marijuana plants grown by the dispensary over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 75% of the mature marijuana plants grown by the dispensary. A dispensary may transfer to or accept from registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A dispensary that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this subparagraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to a caregiver or dispensary to assist a qualifying patient;

(5) Transfer harvested marijuana to a manufacturing facility and accept marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the dispensary provided to the manufacturing facility; and

(6) Provide samples to a marijuana testing facility for testing and research purposes;

Sec. 8. 28-B MRSA §503, sub-§2, ¶A, as enacted by PL 2017, c. 409, Pt. A, §6, is amended to read:

A. Is certified for operation ~~by~~ under the certification program within the Department of Health and Human Services, Maine Center for Disease Control and Prevention established pursuant to Title 22, section 569 and, in accordance with rules adopted by the department after consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, which must allow for inspection of the proposed or operational testing facility by the department and the Department of Health and Human Services, Maine Center for Disease Control and Prevention;

Sec. 9. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

Maine Center for Disease Control and Prevention 0143

Initiative: Provides allocations to allow expenditure of additional certification fees.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	\$10,000	\$10,000
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$10,000	\$10,000
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Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.