



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1401

H.P. 950

House of Representatives, May 12, 2015

An Act To Allow for and Regulate the Adult Use of Cannabis

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative DION of Portland.
Cosponsored by Senator GERZOFSKY of Cumberland and
Representatives: HAMANN of South Portland, HAWKE of Boothbay Harbor, O'CONNOR of
Berwick, PIERCE of Dresden, SAWICKI of Auburn, Senator: HASKELL of Cumberland.

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

2 **PART A**

3 **Sec. A-1. 36 MRSA c. 723** is enacted to read:

4 **CHAPTER 723**

5 **CANNABIS TAX**

6 **§4921. Definitions**

7 As used in this chapter, unless the context otherwise indicates, the following terms
8 have the following meanings.

9 **1. Cannabis.** "Cannabis" means all parts of the plant of the genus cannabis whether
10 growing or not, the seeds thereof, the resin extracted from any part of the plant and every
11 compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or
12 its resin including cannabis concentrate. "Cannabis" does not include industrial hemp,
13 cannabis fiber produced from the stalks of the cannabis plant, cake made from the seeds
14 of the cannabis plant, sterilized seed of the cannabis plant that is incapable of germination
15 or the weight of any ingredient combined with cannabis to prepare topical or oral
16 administrations, food, drink or any other product.

17 **2. Cannabis establishment.** "Cannabis establishment" means a commercial
18 cannabis cultivation facility, cannabis testing facility, cannabis product manufacturing
19 facility or retail cannabis store.

20 **3. Cannabis product manufacturing facility.** "Cannabis product manufacturing
21 facility" means an entity licensed under Title 28-A, chapter 110 to:

22 A. Purchase cannabis from a commercial cannabis cultivation facility licensed by the
23 State;

24 B. Manufacture, prepare and package cannabis products; and

25 C. Sell cannabis products to other cannabis product manufacturing facilities and to
26 retail cannabis stores, but not to consumers.

27 **4. Cannabis products.** "Cannabis products" means concentrated cannabis and
28 products that consist of cannabis and other ingredients and that are intended for use or
29 consumption, including, but not limited to, edible products, ointments and tinctures.

30 **5. Cannabis testing facility.** "Cannabis testing facility" means a public or private
31 laboratory licensed and certified by the Department of Health and Human Services or
32 accredited pursuant to standard ISO/IEC 17025 of the International Organization for
33 Standardization by a 3rd-party accrediting body approved by the Department of Health
34 and Human Services, such as the American Association for Laboratory Accreditation or
35 the ANSI-ASQ National Accreditation Board, to analyze cannabis or cannabis products
36 for contaminants, potency and cannabinoid profile.

1 **6. Commercial cannabis cultivation facility.** "Commercial cannabis cultivation
2 facility" means an entity licensed under Title 28-A, chapter 110 to cultivate, prepare and
3 package cannabis and to sell cannabis to retail cannabis stores, to cannabis product
4 manufacturing facilities and to other cannabis cultivation facilities, but not to consumers.

5 **7. Retail cannabis store.** "Retail cannabis store" means an entity licensed under
6 Title 28-A, chapter 110 to purchase or receive cannabis from a commercial cannabis
7 cultivation facility and cannabis products from a cannabis product manufacturing facility
8 and to sell cannabis and cannabis products to consumers.

9 **§4922. Sales tax on cannabis products**

10 **1. Rate.** In addition to the sales tax imposed pursuant to section 1811, a tax at the
11 rate of 10% is imposed on the sale of cannabis and cannabis products sold at retail
12 cannabis stores.

13 **2. Exemption.** The sale of marijuana to qualifying patients pursuant to Title 22,
14 chapter 558-C is exempt from the tax imposed by this section.

15 **3. Rate review.** The Department of Administrative and Financial Services, Bureau
16 of Alcoholic Beverages, Cannabis and Lottery Operations annually shall review the tax
17 rate established under this section and make recommendations to the Legislature as
18 appropriate regarding reductions to the tax rate for the purpose of reducing the cost of
19 legally available cannabis to a cost that is below the cost of cannabis that is sold illegally.

20 **§4923. Application of tax revenue**

21 **1. Application of sales tax revenue.** Revenue derived from the sales tax imposed
22 by section 4922 must be credited to a General Fund suspense account and disbursed as
23 provided in this subsection.

24 A. On or before the last day of each month, the State Controller shall transfer 10% of
25 the revenue received by the assessor during the preceding month from the tax
26 imposed by section 4922 to the Cannabis Regulation and Licensing Fund established
27 under Title 28-A, section 3010 for the purpose of enforcement checks to deter
28 underage sales and other related activities.

29 B. On or before the last day of each month, the State Controller shall transfer 10% of
30 the revenue received by the assessor during the preceding month from the tax
31 imposed by section 4922 to be apportioned to the counties and municipalities in the
32 State as follows.

33 (1) Each municipality must receive a percentage determined by dividing the
34 amount of revenue collected from the tax imposed by section 4922 on retail
35 cannabis and cannabis product sales within that municipality by the total amount
36 of revenue collected statewide from the tax imposed by section 4922 on retail
37 cannabis and cannabis product sales.

38 (2) Each county must receive a percentage determined by dividing the amount of
39 revenue collected from the tax imposed by section 4922 on retail cannabis and
40 cannabis product sales in the unincorporated area of the county by the total

1 amount of revenue collected statewide from the tax imposed by section 4922 on
2 retail cannabis and cannabis product sales.

3 C. On or before the last day of each month, the State Controller shall transfer 10% of
4 the revenue received by the assessor during the preceding month from the tax
5 imposed by section 4922 to the Fund for a Healthy Maine for the elderly low-cost
6 drug program conducted by the Department of Health and Human Services pursuant
7 to Title 22, section 254-D.

8 D. On or before the last day of each month, the State Controller shall transfer 10% of
9 the revenue received by the assessor during the preceding month from the tax
10 imposed by section 4922 to the Department of Education to fund public school
11 construction.

12 E. Until January 1, 2022, on or before the last day of each month, the State
13 Controller shall transfer 10% of the revenue received by the assessor during the
14 preceding month from the tax imposed by section 4922 to the Cannabis Research
15 Fund established under Title 22, section 264.

16 F. On or before the last day of each month, the State Controller shall transfer 10% of
17 the revenue received by the assessor during the preceding month pursuant to the tax
18 imposed by section 4922 to the Department of Health and Human Services, Maine
19 Center for Disease Control and Prevention for the purpose of an ongoing public
20 awareness campaign to reduce the use of cannabis by persons under 21 years of age
21 and reduce alcohol and tobacco consumption.

22 G. On or before the last day of each month, the State Controller shall transfer 10% of
23 the revenue received by the assessor during the preceding month from the tax
24 imposed by section 4922 to the Medical Care Services Other Special Revenue Funds
25 account within the Department of Health and Human Services.

26 H. On or before the last day of each month, the State Controller shall transfer the
27 balance of the revenue remaining in the account after the transfers required by
28 paragraphs A to G to the General Fund.

29 **§4924. Annual report**

30 The bureau shall report annually beginning January 30, 2017 the amount of tax
31 revenue collected pursuant to section 4922 and the amount distributed to each fund
32 pursuant to section 4923 to the joint standing committee of the Legislature having
33 jurisdiction over appropriations and financial affairs and the joint standing committee of
34 the Legislature having jurisdiction over taxation matters.

35 **Sec. A-2. Review and report recommendations.** The Department of
36 Administrative and Financial Services, Bureau of Revenue Services shall review methods
37 for ensuring that all cannabis that is sold in the State is assessed, except cannabis that is
38 exempt pursuant to the Maine Revised Statutes, Title 36, section 4922, subsection 2. The
39 bureau shall report its findings and recommendations, including any necessary legislation,
40 to the joint standing committee of the Legislature having jurisdiction over taxation
41 matters by February 15, 2017. The joint standing committee is authorized to submit a bill

1 to the First Regular Session of the 128th Legislature based on the subject matter of the
2 report.

3 **PART B**

4 **Sec. B-1. 22 MRSA §2383, sub-§1**, as repealed and replaced by PL 2009, c. 652,
5 Pt. B, §6, is repealed.

6 **Sec. B-2. 22 MRSA §2383, sub-§1-A** is enacted to read:

7 **1-A. Cannabis.** Except as provided in chapter 558-C, a person under 21 years of
8 age may not possess cannabis.

9 A. A person under 21 years of age who possesses cannabis commits a civil violation
10 for which a fine of not less than \$100 may be adjudged.

11 B. A judge, as an alternative to or in addition to the civil fine specified in paragraph
12 A, may assign a person under 21 years of age who possesses cannabis in violation of
13 this subsection to perform specified work for the benefit of the State or a municipality
14 or other public entity or a charitable institution.

15 C. This subsection may not be construed to protect a person from federal
16 prosecution.

17 **Sec. B-3. Maine Revised Statutes headnote amended; revision clause.** In
18 the Maine Revised Statutes, Title 22, chapter 558, in the chapter headnote, the words
19 "marijuana, scheduled drugs, imitation scheduled drugs and hypodermic apparatuses" are
20 amended to read "cannabis, scheduled drugs, imitation scheduled drugs and hypodermic
21 apparatuses" and the Revisor of Statutes shall implement this revision when updating,
22 publishing or republishing the statutes.

23 **PART C**

24 **Sec. C-1. 22 MRSA §2422, sub-§6**, as amended by PL 2011, c. 407, Pt. B, §7, is
25 further amended to read:

26 **6. Registered dispensary.** "Registered dispensary" or "dispensary" means ~~a not-for-~~
27 ~~profit~~ an entity registered under section 2428, subsection 2 that acquires, possesses,
28 cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses
29 marijuana or related supplies and educational materials to qualifying patients and the
30 primary caregivers of those patients.

31 **Sec. C-2. 22 MRSA §2422, sub-§10**, as enacted by IB 2009, c. 1, §5, is repealed.

32 **Sec. C-3. 22 MRSA §2423-A, sub-§2, ¶K**, as reallocated by RR 2013, c. 1, §40,
33 is amended to read:

34 K. For the purpose of disposing of excess prepared marijuana, transfer prepared
35 marijuana to a registered dispensary for reasonable compensation. The transfer of
36 prepared marijuana by a primary caregiver to one or more dispensaries under this
37 paragraph is limited to a registered primary caregiver. ~~A registered primary caregiver~~

1 may not transfer more than 2 pounds of excess prepared marijuana for reasonable
2 compensation under this paragraph in a calendar year. A primary caregiver who
3 transfers prepared marijuana pursuant to this paragraph does not by virtue of only that
4 transfer qualify as a member of a collective.

5 **Sec. C-4. 22 MRSA §2423-A, sub-§10** is enacted to read:

6 **10. Inspection.** A primary caregiver's cultivation facility is subject to reasonable
7 inspection by the department. The department may enter the cultivation facility at any
8 time, without notice, to carry out an inspection under this subsection.

9 **Sec. C-5. 22 MRSA §2424, sub-§4** is enacted to read:

10 **4. Rules.** The department shall adopt rules governing the manner in which it
11 considers applications for and renewals of the registry identification card for a primary
12 caregiver, including rules governing:

13 A. The form and content of an application or a renewal application;

14 B. Minimum oversight requirements for a primary caregiver's cultivation facility;

15 C. Minimum record-keeping requirements for a primary caregiver, including a
16 requirement to record the disposal of marijuana that is not distributed by the primary
17 caregiver to a qualifying patient who has designated the primary caregiver to
18 cultivate for that patient;

19 D. Minimum security requirements for a primary caregiver's cultivation facility; and

20 E. Procedures for suspending or terminating the registry identification card of a
21 primary caregiver who violates the provisions of this chapter or the rules adopted
22 pursuant to this subsection.

23 **Sec. C-6. 22 MRSA §2425, sub-§4**, as amended by PL 2013, c. 396, §10, is
24 further amended to read:

25 **4. Primary caregiver registry identification card; cap.** The ~~Until December 31,~~
26 2015, the department shall issue a registry identification card to each registered primary
27 caregiver, if any, who is named in a registered patient's approved application pursuant to
28 subsection 1, paragraph E and, if the registered primary caregiver employs an employee
29 pursuant to section 2423-A, subsection 2, paragraph I, to that employee. ~~Beginning~~
30 January 1, 2016, the department shall limit the number of primary caregivers issued a
31 registry identification card to the number of primary caregivers registered with the
32 department on December 31, 2015.

33 **Sec. C-7. 22 MRSA §2428, sub-§2, ¶A**, as amended by PL 2013, c. 394, §7, is
34 further amended to read:

35 A. The department shall register a dispensary and issue a registration certificate or
36 renew a registration certificate within 30 days to any person or entity that provides:

37 (1) An annual fee paid to the department as set by rule pursuant to section 2425,
38 subsection 12, paragraph C;

1 (2) The legal name of the dispensary, evidence of incorporation under ~~Title 13-B~~
2 the laws of this State and evidence that the corporation is in good standing with
3 the Secretary of State;

4 (3) The physical address of the dispensary and the physical address of a
5 maximum of one additional location, if any, where marijuana will be cultivated
6 for patients who have designated the dispensary to cultivate for them. If a
7 registered dispensary changes the physical location of the dispensary or the
8 location at which it cultivates marijuana, the dispensary shall notify the
9 department on a location change form provided by the department, pay a change
10 fee as established in section 2425, subsection 12, paragraph C and obtain a new
11 registration certificate from the department;

12 (4) The name, address and date of birth of each principal officer and board
13 member of the dispensary; and

14 (5) The name, address and date of birth of any person who is employed by the
15 dispensary.

16 **Sec. C-8. 22 MRSA §2428, sub-§2, ¶E** is enacted to read:

17 E. If a registered dispensary reorganizes under Title 13-C with at least 2/3 of the
18 same board members as in that registered dispensary's previous organization under
19 Title 13-B, for all licensure purposes under this chapter, that reorganized registered
20 dispensary is deemed to be the same registered dispensary previously formed under
21 Title 13-B.

22 **Sec. C-9. 22 MRSA §2428, sub-§6, ¶A**, as amended by PL 2011, c. 407, Pt. B,
23 §32, is further amended to read:

24 ~~A. A dispensary must be operated on a not for profit basis for the mutual benefit of~~
25 ~~qualifying patients who have designated the dispensary to cultivate marijuana. The~~
26 ~~bylaws of a dispensary and its contracts with qualifying patients must contain such~~
27 ~~provisions relative to the disposition of revenues and receipts as may be necessary~~
28 ~~and appropriate to establish and maintain its not for profit status. A dispensary need~~
29 ~~not be recognized as a tax exempt organization under 26 United States Code, Section~~
30 ~~501(c)(3) but is required to shall incorporate pursuant to Title 13-B the laws of this~~
31 ~~State and to maintain the corporation in good standing with the Secretary of State.~~

32 **Sec. C-10. 28-A MRSA Pt. 9** is enacted to read:

33 **PART 9**
34 **CANNABIS REGULATION**
35 **CHAPTER 110**
36 **CANNABIS REGULATION ACT**

37 **§3001. Short title**

38 This chapter may be known and cited as the Cannabis Regulation Act.

1 **§3002. Definitions**

2 As used in this chapter, unless the context otherwise indicates, the following terms
3 have the following meanings.

4 **1. Cannabis.** "Cannabis" means all parts of the plant of the genus cannabis whether
5 growing or not, the seeds thereof, the resin extracted from any part of the plant and every
6 compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or
7 its resin including cannabis concentrate. "Cannabis" does not include industrial hemp,
8 cannabis fiber produced from the stalks of the cannabis plant, cake made from the seeds
9 of the cannabis plant, sterilized seed of the cannabis plant that is incapable of germination
10 or the weight of any ingredient combined with cannabis to prepare topical or oral
11 administrations, food, drink or any other product.

12 **2. Cannabis accessories.** "Cannabis accessories" means equipment, products or
13 materials of any kind that are used, or intended or designed for use, in planting,
14 propagating, cultivating, growing, harvesting, composting, manufacturing, compounding,
15 converting, producing, processing, preparing, testing, analyzing, packaging, repackaging,
16 storing, vaporizing or containing cannabis or for ingesting, inhaling or otherwise
17 introducing cannabis into the human body.

18 **3. Cannabis establishment.** "Cannabis establishment" means a commercial
19 cannabis cultivation facility, cannabis testing facility, cannabis product manufacturing
20 facility or retail cannabis store.

21 **4. Cannabis product manufacturing facility.** "Cannabis product manufacturing
22 facility" means an entity licensed to:

23 A. Purchase cannabis from a commercial cannabis cultivation facility licensed by the
24 State;

25 B. Manufacture, prepare and package cannabis products; and

26 C. Sell cannabis products to other cannabis product manufacturing facilities and to
27 retail cannabis stores, but not to consumers.

28 **5. Cannabis products.** "Cannabis products" means concentrated cannabis and
29 products that consist of cannabis and other ingredients and that are intended for use or
30 consumption, including, but not limited to, edible products, ointments and tinctures.

31 **6. Cannabis testing facility.** "Cannabis testing facility" means a public or private
32 laboratory licensed and certified by the Department of Health and Human Services or
33 accredited pursuant to standard ISO/IEC 17025 of the International Organization for
34 Standardization by a 3rd-party accrediting body approved by the Department of Health
35 and Human Services, such as the American Association for Laboratory Accreditation or
36 the ANSI-ASQ National Accreditation Board, to analyze cannabis or cannabis products
37 for contaminants, potency and cannabinoid profile.

38 **7. Commercial cannabis cultivation facility.** "Commercial cannabis cultivation
39 facility" means an entity licensed to cultivate, prepare and package cannabis and sell

1 cannabis to retail cannabis stores, to cannabis product manufacturing facilities and to
2 other cannabis cultivation facilities, but not to consumers.

3 **8. Consumer.** "Consumer" means a person 21 years of age or older who possesses
4 cannabis or cannabis products for personal use or use by persons 21 years of age or older,
5 but not for resale to others.

6 **9. Licensee.** "Licensee" means any individual, partnership, corporation, firm,
7 association or other legal entity holding a cannabis establishment license under section
8 3007 within the State.

9 **10. Locality.** "Locality" means a municipality or, in reference to a location in the
10 unorganized territory, the county.

11 **11. Qualifying application.** "Qualifying application" means a license application
12 that meets the standards set forth in rules adopted by the bureau pursuant to section 3003,
13 subsection 2.

14 **12. Retail cannabis store.** "Retail cannabis store" means an entity licensed to
15 purchase or receive cannabis from a commercial cannabis cultivation facility and
16 cannabis products from a cannabis product manufacturing facility and to sell cannabis
17 and cannabis products to consumers.

18 **13. Sample.** "Sample" means cannabis or a cannabis product regulated under this
19 chapter that is provided for testing or research purposes to a cannabis testing facility.

20 **14. Seedling.** "Seedling" means a female cannabis plant that is not in a flowering
21 state.

22 **§3003. Bureau duties**

23 The bureau is responsible for the administration of the Cannabis Regulation Act. The
24 bureau shall:

25 **1. General supervision.** Enforce the laws and rules relating to the manufacturing,
26 processing, labeling, storing, transporting, testing and selling of cannabis by cannabis
27 establishments and administer those laws relating to licensing;

28 **2. Rules.** Establish rules consistent with this chapter for the administration and
29 enforcement of laws regulating and licensing cannabis establishments, including rules to
30 prevent the sale of cannabis by licensees to minors and intoxicated persons by
31 establishing a method to verify the age of consumers with a government-issued
32 photograph identification document or credential and rules for a streamlined license
33 application process. Rules adopted pursuant to this subsection are routine technical rules
34 under Title 5, chapter 375, subchapter 2-A;

35 **3. Inspections.** Perform regular inspections of cannabis establishments before
36 issuing a license, before issuing a renewal of a license or when investigating complaints
37 alleging violations of this chapter;

1 **4. Licensing.** Pursuant to section 3007, issue commercial cannabis cultivation
2 facility, cannabis testing facility, cannabis product manufacturing facility and retail
3 cannabis store licenses, or combined, comprehensive licenses that may not include
4 licensing for a cannabis testing facility;

5 **5. Certification.** Certify monthly to the Treasurer of State a complete statement of
6 revenues and expenses for licenses issued by the bureau and of revenues collected by the
7 Department of Administrative and Financial Services, Bureau of Revenue Services under
8 Title 36, section 4922 and submit by January 15th annually a report that includes a
9 complete statement of the revenues and expenses of the bureau to the Governor and the
10 Legislature;

11 **6. Suspension and revocation of licenses.** Suspend or revoke the license of a
12 licensee in accordance with rules adopted by the bureau and the Maine Administrative
13 Procedure Act. A cannabis establishment whose license is suspended or revoked pursuant
14 to this subsection may:

15 A. Continue to possess cannabis during the time the cannabis establishment's license
16 is suspended, but it may not dispense, transfer or sell cannabis, cannabis products or
17 cannabis accessories. If the cannabis establishment is a commercial cannabis
18 cultivation facility, it may continue to cultivate cannabis plants during the time its
19 license is suspended. Cannabis may not be removed from the licensed premises
20 except as authorized by the bureau and only for the purpose of destruction; and

21 B. Possess cannabis for up to 14 days after the revocation of its license and the final
22 disposition of appeals of that revocation, during which time the cannabis
23 establishment shall dispose of its inventory of cannabis in accordance with bureau
24 rules;

25 **7. Examine applicants.** Examine the qualifications and backgrounds of all
26 applicants for cannabis establishment licenses for compliance with this chapter prior to
27 issuing a license;

28 **8. Priorities.** Give first priority for tier 1 and tier 2 commercial cannabis cultivation
29 facility licenses to registered primary caregivers that are in compliance with Title 22,
30 chapter 558-C and for tier 3 commercial cannabis cultivation facility licenses to
31 registered dispensaries that are in compliance with Title 22, chapter 558-C; and

32 **9. Annual report.** Beginning January 15, 2017 and annually thereafter, report to the
33 joint standing committee of the Legislature having jurisdiction over cannabis regulation
34 matters. The report must include, but is not limited to, all rules adopted by the bureau and
35 statistics regarding the number of cannabis establishment applications received and
36 establishments licensed, the licensing fees collected during the year immediately prior to
37 the report and any violations found during inspections performed pursuant to subsection
38 3. The report also must include statistical data regarding cannabis use by minors and
39 perceptions of minors regarding the safety of cannabis, tobacco, alcohol and controlled
40 substances.

1 **§3004. Exemption from criminal and civil penalties, seizure or forfeiture**

2 Notwithstanding Title 17-A, chapter 45 or any other provision of law to the contrary
3 and except as provided in this chapter, the actions specified in this chapter are legal under
4 the laws of this State and do not constitute a civil or criminal offense under the laws of
5 this State or the law of any political subdivision within this State that does not prohibit
6 the operation of a cannabis establishment pursuant to section 3009 or serve as a basis for
7 seizure or forfeiture of assets under state law.

8 This chapter may not be construed to protect an individual, partnership, corporation,
9 firm, association or other legal entity from federal prosecution.

10 **§3005. Personal use of cannabis**

11 **1. Personal use of cannabis.** A person 21 years of age or older may:

12 A. Transport cannabis accessories and up to one ounce of cannabis, or its equivalent
13 in cannabis products;

14 B. Transfer or furnish, without remuneration, up to one ounce of cannabis, or its
15 equivalent in cannabis products, to a person who is 21 years of age or older;

16 C. Possess, grow, cultivate, process or transport up to 3 cannabis plants and up to 6
17 seedlings and possess the cannabis produced by the cannabis plants on the premises
18 where the plants were grown; and

19 D. Purchase up to one ounce of cannabis, or its equivalent in cannabis products,
20 cannabis seedlings, clones, seeds and cannabis accessories from a retail cannabis
21 store. For purposes of this paragraph, "clone" means a cutting from a mature
22 cannabis plant that may be replanted and raised to produce cannabis buds.

23 **2. Restrictions on cannabis cultivation.** The following provisions apply to the
24 cultivation of cannabis for personal use by a person who is 21 years of age or older.

25 A. A person who is not a qualifying patient under Title 22, chapter 558-C may
26 cultivate up to 3 flowering cannabis plants at that person's place of residence, on
27 property owned by that person or, with the permission of the owner, on another
28 person's property.

29 B. A person who elects to cultivate cannabis shall take reasonable precautions to
30 ensure the plants and cannabis products are secure from unauthorized access or
31 access by a person under 21 years of age. Reasonable precautions include, but are not
32 limited to, cultivating cannabis in an enclosed, locked indoor or outdoor facility to
33 which a person under 21 years of age does not reasonably have access.

34 C. Cannabis cultivation for medical use is not considered cultivation for personal use
35 under this chapter and is governed by Title 22, chapter 558-C.

36 This subsection may not be construed to deny a property owner the right to prohibit
37 cannabis farming or cultivation on that person's property.

38 **3. Use.** The use of cannabis by a person 21 years of age or older is governed by this
39 subsection.

1 A. This chapter does not permit a person to consume cannabis in a manner that
2 endangers others.

3 B. A person who smokes cannabis in a public place commits a civil violation for
4 which a fine of \$100 may be adjudged.

5 C. This chapter may not be construed to allow an adult to possess or consume
6 cannabis on federal property.

7 D. A person may allow consumption of cannabis on that person's private property.

8 **§3006. Cannabis establishments**

9 **1. Cannabis establishments.** A cannabis establishment may engage in the
10 cultivation, manufacture, possession or purchase of cannabis, cannabis products and
11 cannabis accessories or sell cannabis, cannabis products or cannabis accessories to a
12 consumer as described in this subsection.

13 A. A retail cannabis store may:

14 (1) Possess, display or transport cannabis, cannabis products or cannabis
15 accessories;

16 (2) Purchase cannabis from a commercial cannabis cultivation facility;

17 (3) Purchase cannabis products from a cannabis product manufacturing facility;

18 (4) Sell cannabis, cannabis products or cannabis accessories to consumers; and

19 (5) Provide samples to a cannabis testing facility.

20 B. A commercial cannabis cultivation facility may:

21 (1) Cultivate, harvest, process, package, transport, display or possess cannabis;

22 (2) Deliver or transfer samples to a cannabis testing facility; and

23 (3) Sell cannabis to a cannabis product manufacturing facility, a retail cannabis
24 store or a commercial cannabis cultivation facility.

25 C. A cannabis product manufacturing facility may:

26 (1) Package, process, transport, manufacture or possess cannabis or cannabis
27 products;

28 (2) Deliver or transfer samples to a cannabis testing facility;

29 (3) Sell cannabis products to a retail cannabis store or a cannabis product
30 manufacturing facility; and

31 (4) Purchase cannabis from a commercial cannabis cultivation facility.

32 D. A cannabis testing facility may possess, process, store, transport, transfer or
33 deliver samples.

34 A cannabis establishment may lease or otherwise allow the use of property owned,
35 occupied or controlled by a person, corporation or other entity for any of the activities
36 conducted lawfully in accordance with paragraphs A to D.

1 **2. Medical marijuana dispensaries.** A registered dispensary licensed pursuant to
2 Title 22, chapter 558-C may be licensed as any or all of the types of cannabis
3 establishments in this chapter.

4 After the adoption by the bureau of rules to implement this chapter, each registered
5 dispensary licensed under Title 22, chapter 558-C is deemed to have a provisional license
6 to operate one commercial cannabis cultivation facility, one cannabis product
7 manufacturing facility and one retail cannabis store; except that, if the Department of
8 Health and Human Services approved a registered dispensary for cultivation under Title
9 22, chapter 558-C, that registered dispensary is deemed to only have a license to operate
10 one commercial cannabis cultivation facility. Upon demonstration of compliance with
11 these rules during the annual renewal, the registered dispensary must be granted a full
12 license. A registered dispensary shall pay the appropriate cannabis establishment
13 licensing fees as established by the bureau and submit to a site inspection by the bureau to
14 ensure compliance with this chapter. A registered dispensary shall demonstrate
15 compliance with this chapter upon renewal of its cannabis establishment license.

16 **3. Construction.** This section may not be construed to prevent the imposition of
17 penalties for violating this chapter or state or local rules adopted pursuant to this chapter.

18 **§3007. Licensing of cannabis establishments**

19 **1. Applications.** The bureau shall begin accepting and processing applications for
20 cannabis establishment licenses by August 1, 2016. An applicant for a cannabis
21 establishment license shall file an application in the form required by the bureau for the
22 type of cannabis establishment license sought along with the nonrefundable license
23 application fee, as set by the bureau. An applicant may apply for and be granted more
24 than one type of cannabis establishment license.

25 **2. Local consultation.** Upon receiving an application for a cannabis establishment
26 license, the bureau shall immediately forward a copy of the application and 25% of the
27 nonrefundable license application fee to the locality in which the applicant desires to
28 operate.

29 **3. License issued.** The bureau shall issue or renew a license to operate a cannabis
30 establishment to an applicant who meets the requirements of the bureau as set forth in
31 rule and in subsection 11 within 90 days of the date of receipt of the application unless:

32 A. The bureau finds the applicant is not in compliance with this section or rules
33 adopted by the bureau;

34 B. The bureau is notified by the relevant locality that the applicant is not in
35 compliance with an ordinance, rule or regulation made pursuant to section 3009 and
36 in effect at the time of application; or

37 C. The number of cannabis establishments allowed in the locality has been limited
38 pursuant to section 3009 or is limited by subsection 6 and the bureau has already
39 licensed the maximum number of cannabis establishments allowed in the locality for
40 the category of license that is sought.

1 **4. License fees.** The bureau shall determine the revenue needed to establish the
2 licensing and enforcement operations of the bureau and set the licensing fees in
3 proportion to the size categories established in subsection 7.

4 **5. Competing applications.** The following provisions apply when the number of
5 applications received by the bureau exceeds the number of cannabis establishments in a
6 locality permitted pursuant to this chapter.

7 A. If a greater number of applications are received from qualified applicants to
8 operate a cannabis establishment in a locality than are allowed under the limits
9 enacted by the locality pursuant to section 3009 or pursuant to subsection 6, the
10 bureau shall solicit and consider input from the locality. Within 90 days of the date
11 the first application is received, the bureau shall issue the maximum number of
12 applicable licenses for each type of cannabis establishment license application
13 received.

14 B. In any competitive application process to determine which applicants will receive
15 licenses for any class of cannabis establishment, the bureau shall give first preference
16 to an applicant who has at least 2 years of previous experience cultivating cannabis in
17 compliance with the laws of this State. In order to demonstrate compliance with state
18 law, the applicant shall provide evidence of compliance with Title 22, chapter 558-C
19 and at least 2 years of state and federal tax records.

20 **6. Limitation on number of retail cannabis stores.** Unless a locality has
21 prohibited retail cannabis stores and as long as at least one qualifying application is
22 received, the bureau shall license retail cannabis stores as provided in this subsection.

23 A. For a county with a population of:

24 (1) At least 200,000 residents, the bureau may license a maximum of 3 retail
25 cannabis stores;

26 (2) Fewer than 200,000 residents but more than 150,000 residents, the bureau
27 may license a maximum of 2 retail cannabis stores; and

28 (3) Fewer than 150,000 residents, the bureau may license a maximum of one
29 retail cannabis store.

30 B. For a municipality with a population of:

31 (1) At least 20,000 residents, the bureau may license a maximum of 2 retail
32 cannabis stores; and

33 (2) Fewer than 20,000 residents, the bureau may license a maximum of one retail
34 cannabis store.

35 C. A retail cannabis store may not be located within 2 miles of another retail
36 cannabis store.

37 D. Notwithstanding the limits imposed under paragraph A, after January 1, 2017, if
38 the bureau determines that sufficient demand exists, it may license one or more
39 additional retail cannabis stores in each county.

1 **7. Commercial cannabis cultivation facility licensing.** An applicant for a
2 commercial cannabis cultivation facility license shall designate the size category of the
3 production premises and the amount of actual square footage in the premises that will be
4 designated as plant canopy. For purposes of this subsection, "plant canopy" means the
5 area covered by the flowering tops of harvestable female cannabis plants.

6 A. There are 3 size categories of commercial cannabis cultivation facilities:

7 (1) Tier 1, which has less than 500 square feet of plant canopy;

8 (2) Tier 2, which has at least 500 square feet of plant canopy but less than 2,500
9 square feet of plant canopy; and

10 (3) Tier 3, which has at least 2,500 square feet of plant canopy.

11 B. The number of licenses that the bureau may issue for each tier facility is specified
12 in this paragraph.

13 (1) The bureau shall issue at least 200 but may not issue more than 500 tier 1
14 licenses.

15 (2) The bureau may not issue more than 10 tier 2 licenses.

16 (3) The bureau may not issue more than 7 tier 3 licenses.

17 C. Each tier 1 commercial cannabis cultivation facility must be separated by at least
18 100 feet from another tier 1 commercial cannabis cultivation facility.

19 D. Notwithstanding the limits imposed under paragraph B, after January 1, 2017, if
20 the bureau determines that sufficient demand exists, it may license one or more
21 additional cultivation facilities in each category.

22 **8. Limitation on number of cannabis product manufacturing facility licenses.**

23 The bureau may adopt rules to limit the number of cannabis product manufacturing
24 facility licenses it issues. Rules adopted pursuant to this subsection are routine technical
25 rules under Title 5, chapter 375, subchapter 2-A.

26 **9. Reasons for denial.** Upon denial of a license application under this section, the
27 bureau shall notify the applicant in writing of the specific reason for its denial.

28 **10. License term.** All licenses issued or renewed under this chapter are effective for
29 one year from the date of issuance or renewal.

30 **11. Qualifications.** This subsection governs the qualifications for licensure as a
31 cannabis establishment.

32 A. A person applying for a cannabis establishment license must have proof that the
33 person has lived in the State for a minimum of 2 years prior to applying. If a
34 corporation is applying for a cannabis establishment license, the board of that
35 corporation must be controlled by residents of this State who can prove that they have
36 lived in this State for at least 2 years immediately prior to applying.

37 B. A corporation applying for a cannabis establishment license must be chartered by
38 this State.

1 C. A person who has been convicted of a disqualifying drug offense is not eligible to
2 be a licensee. For purposes of this paragraph, "disqualifying drug offense" means a
3 conviction for a violation of a state or federal controlled substance law that is a crime
4 punishable by imprisonment for one year or more. "Disqualifying drug offense" does
5 not include an offense for which the sentence, including any term of probation,
6 incarceration or supervised release, was completed 10 or more years prior to
7 application for licensure or an offense that consisted of conduct that is permitted
8 under this chapter.

9 D. A person who has had a license for a cannabis establishment revoked pursuant to
10 section 3003, subsection 6 is not eligible to be a licensee.

11 E. If an applicant is a corporation, the applicant may not be issued a license if a
12 principal officer of the corporation is personally ineligible under paragraph A, C or
13 D.

14 F. If a registered dispensary reorganizes under Title 13-C with at least 2/3 of the
15 same board members as in that registered dispensary's previous organization under
16 Title 13-B, for all licensure purposes under this chapter, that reorganized registered
17 dispensary is deemed to be the same registered dispensary previously formed under
18 Title 13-B.

19 **12. General cannabis establishment operations.** This subsection governs the
20 operation of a cannabis establishment.

21 A. A cannabis establishment may not be located within 1,000 feet of the property
22 line of a preexisting public or private school. The distance must be measured from the
23 main entrance of the cannabis establishment to the main entrance of the school by the
24 ordinary course of travel.

25 B. A cannabis establishment licensee shall implement appropriate security measures,
26 consistent with rules adopted by the bureau, that are designed to:

27 (1) Control entrance into areas containing cannabis;

28 (2) Prevent the theft of cannabis located on the premises or being transported to
29 or from the premises by the licensee;

30 (3) Prevent tampering with or adulteration of the cannabis products; and

31 (4) Prevent access to cannabis by or sales of cannabis to minors, except that a
32 cannabis establishment that is a registered dispensary may continue to serve its
33 qualifying patients as permitted under Title 22, chapter 558-C.

34 C. A cannabis establishment licensee shall prepare and maintain documents that
35 include all aspects of operations and procedures to ensure accurate record keeping.

36 D. A cannabis establishment shall make available for inspection its license at the
37 premises to which that license applies. A cannabis establishment licensee may not at
38 any time refuse a representative of the bureau the right to inspect the entire licensed
39 premises or to audit the books and records of the licensee.

40 E. A retail cannabis store may not sell cannabis to a visibly intoxicated person.

41 F. A cannabis establishment may not allow a minor to:

1 (1) Enter or remain on the premises unless the minor is emergency personnel or
2 under the direct supervision of a contractor performing work on the facility that is
3 not directly related to the cultivation of cannabis; or

4 (2) Purchase cannabis at a retail cannabis store.

5 A cannabis establishment that is a registered dispensary may continue to serve its
6 qualifying patients as permitted under Title 22, chapter 558-C.

7 G. A cannabis establishment may not sell cannabis between the hours of 1 a.m. and 6
8 a.m.

9 H. A cannabis establishment may not employ as a manager or leave in charge of the
10 licensed premises a person who, by reason of conviction for a disqualifying drug
11 offense or because of a revocation of that person's cannabis establishment license, is
12 not eligible for a cannabis establishment license.

13 I. A retail cannabis store may sell or furnish cannabis or cannabis products to a
14 consumer only from the premises licensed by the bureau.

15 J. A retail cannabis store shall verify the age of every consumer purchasing cannabis
16 products by checking a government-issued photograph identification document or
17 credential.

18 K. If a cannabis establishment licensee also sells cannabis as a registered dispensary
19 in accordance with Title 22, chapter 558-C, the licensee shall maintain a separate
20 accounting method to distinguish between medical marijuana sales and adult use
21 cannabis sales for purposes of imposing, collecting and remitting the appropriate
22 amount of sales tax.

23 L. A cannabis establishment may not advertise cannabis or cannabis products within
24 the State except in a form specifically authorized by the bureau.

25 **13. Commercial cannabis cultivation facility operations.** In addition to the
26 requirements of subsection 11, a person licensed as a commercial cannabis cultivation
27 facility shall comply with the following operational requirements.

28 A. The use of pesticides at a commercial cannabis cultivation facility is governed by
29 Title 22, section 2423-A, subsection 2, paragraph J and section 2428, subsection 9,
30 paragraph G and rules adopted by the Department of Agriculture, Conservation and
31 Forestry.

32 B. The bureau and the Department of Agriculture, Conservation and Forestry shall
33 inspect commercial cannabis cultivation facilities. The commercial cannabis
34 cultivation facility licensee shall ensure that the facility is accessible at any time
35 during business hours to the bureau and the department. The bureau and the
36 department shall develop rules regarding the consequences of failure to allow
37 inspections, up to and including forfeiture of the commercial cannabis cultivation
38 facility license.

39 **14. Interstate compacts.** Maine may join an interstate compact of states that have
40 legalized cannabis to allow for the interstate transfer of cannabis.

1 **15. Confidential information.** Information received by the bureau for the purposes
2 of demonstrating compliance with Title 36 and rules made pursuant to Title 36 is
3 confidential and not subject to disclosure under the Freedom of Access Act.

4 **16. Penalties.** A person who cultivates, produces or sells cannabis or cannabis
5 products illegally or without a license commits a Class D crime.

6 **§3008. Cannabis testing facility**

7 **1. Cannabis testing facility.** The following provisions apply to a cannabis testing
8 facility.

9 A. A cannabis testing facility may receive and possess samples from a commercial
10 cannabis cultivation facility, a cannabis product manufacturing facility or a person
11 over 21 years of age for the purpose of testing the samples for the cannabinoid profile
12 and potency of the samples and for contaminants in the samples, including but not
13 limited to mold, mildew, heavy metals, plant-growth regulators and illegal pesticides.

14 B. An employee of a cannabis testing facility may have access to commercial
15 cannabis cultivation facilities.

16 C. A cannabis testing facility shall:

17 (1) Properly dispose of cannabis residue in compliance with bureau rules;

18 (2) Maintain testing results as part of the facility's business books and records;
19 and

20 (3) Operate in accordance with security rules adopted by the bureau.

21 D. The bureau shall adopt routine technical rules as defined in Title 5, chapter 375,
22 subchapter 2-A governing a cannabis testing facility, including, but not limited to:

23 (1) The form and content of cannabis labeling;

24 (2) Standards for the testing of samples by a cannabis testing facility;

25 (3) Requirements relating to the size of samples and collection methods for
26 samples;

27 (4) Cannabis testing facility director qualification requirements, including the
28 requirement that the director of a cannabis testing facility hold a master's degree
29 or higher in a relevant science;

30 (5) Required security for a cannabis testing facility; and

31 (6) Requirements for the licensing, certifying or other approval of a cannabis
32 testing facility.

33 **2. Labels.** If a cannabis establishment affixes a label on the packaging of any
34 cannabis or cannabis product provided to a consumer and that label includes the
35 cannabinoid profile or potency of the cannabis or cannabis product, the information on
36 the label must be verified by a cannabis testing facility.

1 **§3009. Local control**

2 **1. Local option.** A locality may prohibit the operation of one or more of the types of
3 cannabis establishments through the enactment of an ordinance or through an initiated or
4 referendum measure, except that an initiated or referendum measure to prohibit the
5 operation of a cannabis establishment must appear on a general election ballot for that
6 locality.

7 **2. Local regulations.** If a locality does not prohibit the operation of a cannabis
8 establishment pursuant to subsection 1, the following provisions apply.

9 A. A locality may enact an ordinance, rule or regulation pursuant to this paragraph as
10 long as that ordinance, rule or regulation is not in conflict with this section or with
11 rules issued pursuant to section 3003. The ordinance, rule or regulation may:

12 (1) Govern the time, place and manner of operation of a cannabis establishment
13 and the number of cannabis establishments that may operate in the locality; and

14 (2) Establish civil penalties for the violation of an ordinance, rule or regulation
15 governing the time, place and manner in which a cannabis establishment may
16 operate in that locality.

17 **§3010. Cannabis Regulation and Licensing Fund established**

18 **1. Fund established.** The Cannabis Regulation and Licensing Fund, referred to in
19 this section as "the fund," is established as an Other Special Revenue Funds account in
20 the bureau for the purposes specified in this section.

21 **2. Sources of fund.** The State Controller shall credit to the fund:

22 A. All money received as a result of applications and renewal registrations for
23 licensing under section 3007;

24 B. Any penalties and fines established pursuant to rules established by the bureau
25 and assessed for violations of this chapter;

26 C. All money from any other source, whether public or private, designated for
27 deposit into or credited to the fund;

28 D. Ten percent of the revenue generated by the sales tax imposed by Title 36, section
29 4922 pursuant to Title 36, section 4923, subsection 1, paragraph A; and

30 E. Interest earned or other investment income on balances in the fund.

31 **3. Uses of the fund.** The fund must be used for expenses of the bureau to regulate,
32 license and inspect cannabis establishments and to prevent use of cannabis by minors.

33 **§3011. Research authorized**

34 Notwithstanding the provisions of this chapter regulating the distribution of cannabis,
35 a scientific or medical researcher who is conducting valid scientific or medical research
36 that has been approved by an institutional review board of an accredited laboratory or
37 institution of higher education may cultivate, purchase, possess or securely store cannabis

1 for purposes of conducting research. A scientific or medical researcher may administer
2 and distribute cannabis to a participant in research after receiving informed consent from
3 that participant or the legal guardian of that participant.

4 **§3012. Construction**

5 **1. Relation to Maine Medical Use of Marijuana Act.** This chapter may not be
6 construed to limit any privileges or rights under the Maine Medical Use of Marijuana
7 Act.

8 **2. Employment policies.** This chapter may not be construed to require an employer
9 to permit or accommodate the use, consumption, transfer, display, transportation, sale or
10 growing of cannabis in the workplace, except as allowed under the Maine Medical Use of
11 Marijuana Act.

12 **3. Operating under the influence.** This chapter may not be construed to exempt a
13 person from the laws prohibiting operating under the influence of intoxicants under Title
14 29-A, chapter 23.

15 **4. Transfer to minor.** This chapter may not be construed to permit the transfer of
16 cannabis, with or without remuneration, to a minor or to allow a minor to purchase,
17 possess, use, transport, grow or consume cannabis, except as allowed in section 3011 or
18 under the Maine Medical Use of Marijuana Act.

19 **Sec. C-11. Rulemaking by bureau.** By June 1, 2016, the Department of
20 Administrative and Financial Services, Bureau of Alcoholic Beverages, Cannabis and
21 Lottery Operations shall adopt routine technical rules under the Maine Revised Statutes,
22 Title 5, chapter 375, subchapter 2-A for the administration and the enforcement of laws
23 regulating and licensing cannabis establishments pursuant to Title 28-A, chapter 110.
24 These rules must be developed by the bureau and may not be contracted out to an entity
25 outside the bureau. These rules may not prohibit the operation of cannabis establishments,
26 either expressly or through restrictions that make the operation of cannabis
27 establishments unreasonably impracticable. As used in this section, "unreasonably
28 impracticable" means that the measures necessary to comply with the rules require such a
29 high investment of risk, money, time or other resource or asset that the operation of a
30 cannabis establishment is not worthy of being carried out in practice by a reasonably
31 prudent businessperson.

32 Rules adopted pursuant to this section must include:

33 1. Provisions for administering and enforcing Title 28-A, chapter 110, including
34 oversight requirements and civil penalties for violations;

35 2. The form and content of applications for each type of cannabis establishment
36 license, renewal registration forms and associated licensing and renewal fee schedules.
37 The rules must include a streamlined application process for caregivers and dispensaries
38 registered under the Maine Medical Use of Marijuana Act, including procedures for
39 issuing a combined, comprehensive license that allows a registered dispensary to be
40 licensed as a commercial cannabis cultivation facility, cannabis product manufacturing

- 1 facility and a retail cannabis store. The rules must also include an initial site inspection
2 of the facilities of those caregivers and dispensaries to ensure compliance with the
3 Cannabis Regulation Act;
- 4 3. Provisions for making a determination between competing applicants for the same
5 type of cannabis establishment license if there are more applicants than licenses available,
6 so that preference must be given to a registered dispensary under Title 22, chapter 558-C;
- 7 4. Procedures to allow a registered dispensary to be deemed to be in possession of
8 one license each for a commercial cannabis cultivation facility, a cannabis product
9 manufacturing facility and a retail cannabis store;
- 10 5. Procedures and timelines for background checks of an applicant for a license to
11 operate a cannabis establishment and for appeals of decisions of the bureau;
- 12 6. Rules clarifying that a conversion to a for-profit entity by a registered dispensary
13 does not constitute a change of ownership and therefore does not require a new license;
- 14 7. Minimum standards for employment at a cannabis establishment, including
15 requirements for background checks, restrictions against hiring persons under 21 years of
16 age and safeguards to protect against unauthorized access to cannabis;
- 17 8. Minimum record-keeping and inventory requirements for a cannabis
18 establishment, including the following:
- 19 A. The recording of the disposal of cannabis that is not sold; and
- 20 B. For a cannabis establishment that is also a registered dispensary, a requirement to
21 account separately for sales tax purposes for all funds received from the sale of
22 medical marijuana pursuant to Title 22, chapter 558-C and from the sale of
23 commercial cannabis pursuant to Title 28-A, chapter 110;
- 24 9. Health and safety rules and standards for the manufacture and packaging of
25 cannabis products and the cultivation and packaging of cannabis. The bureau shall seek
26 the input of the Department of Agriculture, Conservation and Forestry regarding
27 cultivation rules;
- 28 10. Labeling requirements for cannabis and cannabis products sold or distributed by
29 a cannabis establishment;
- 30 11. Restrictions on the advertising, signs and display of cannabis and cannabis
31 products, including a prohibition on advertising that may reasonably be considered to be
32 aimed at minors;
- 33 12. Minimum security requirements, including standards to reasonably protect
34 against unauthorized access to cannabis at all stages of the licensee's possession,
35 transportation, storage and cultivation of cannabis; these security requirements may not
36 prohibit outdoor cultivation in an enclosed, secured space;
- 37 13. Procedures for enforcing Title 28-A, section 3007, subsection 12, including civil
38 penalties for violations, procedures for suspending or terminating the license of a licensee

1 that violates licensing provisions or the rules adopted pursuant to this section and
2 procedures for appeals of penalties or licensing actions;

3 14. Policies and procedures regarding hash oil extraction; and

4 15. Any other oversight requirements that the bureau determines are necessary to
5 administer the laws relating to licensing cannabis establishments.

6 Rules adopted pursuant to this section may not prohibit a locality, as defined in Title
7 28-A, section 3002, subsection 10, from limiting the number of each type of licensee that
8 may operate in the locality or from enacting reasonable regulations applicable to
9 licensees.

10 **Sec. C-12. Cannabis Research Fund rulemaking.** By June 1, 2016, the
11 Department of Health and Human Services shall adopt routine technical rules under the
12 Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A to implement the provisions
13 of Title 22, section 264 regarding administration and uses of the Cannabis Research
14 Fund.

15 Rules adopted pursuant to this section must include:

16 1. Application procedures, forms, deadlines and eligibility criteria for grants;

17 2. Selection criteria for and composition of a grant review committee, which must
18 include researchers with expertise in medical or scientific research from an accredited
19 laboratory or higher education institution;

20 3. Criteria for awarding grants, dates for decisions of grant awards and methods for
21 disbursement of funds;

22 4. Minimum record-keeping, reporting and publication requirements for persons
23 awarded grants; and

24 5. Any other oversight requirements that the department determines necessary to
25 administer the grants.

26 **Sec. C-13. Rulemaking regarding pesticide use.** By June 1, 2016, the
27 Department of Agriculture, Conservation and Forestry shall examine the Maine Revised
28 Statutes, Title 22, section 2423-A, subsection 2, paragraph J and section 2428, subsection
29 9, paragraph G and adopt rules regulating the use of pesticides, including a list of
30 acceptable and unacceptable pesticides, by a person licensed as a commercial cannabis
31 cultivation facility pursuant to Title 28-A, chapter 110. Rules adopted pursuant to this
32 section are routine technical rules under Title 5, chapter 375, subchapter 2-A.

33 **PART D**

34 **Sec. D-1. 28-A MRSA §2, sub-§6,** as amended by PL 2013, c. 368, Pt. V, §6, is
35 further amended to read:

- 1 A. Kits used or intended for use in planting, propagating, cultivating, growing or
2 harvesting of any species of plant ~~which~~ that is a scheduled drug or from which a
3 scheduled drug can be derived;
- 4 B. Kits used or intended for use in manufacturing, compounding, converting,
5 producing, processing or preparing scheduled drugs;
- 6 C. Isomerization devices used or intended for use in increasing the potency of any
7 species of plant that is a scheduled drug;
- 8 D. Testing equipment used or intended for use in identifying or in analyzing the
9 strength, effectiveness or purity of scheduled drugs;
- 10 E. Scales and balances used or intended for use in weighing or measuring scheduled
11 drugs;
- 12 F. Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite,
13 dextrose and lactose, used or intended for use in cutting scheduled drugs;
- 14 G. Separation gins and sifters, used or intended for use in removing twigs and seeds
15 from, or in otherwise cleaning or refining, marijuana;
- 16 H. Blenders, bowls, containers, spoons and mixing devices used or intended for use
17 in compounding scheduled drugs;
- 18 I. Capsules, balloons, envelopes and other containers used or intended for use in
19 packaging small quantities of scheduled drugs;
- 20 J. Containers and other objects used or intended for use in storing or concealing
21 scheduled drugs; and
- 22 K. Objects used or intended for use in ingesting, inhaling or otherwise introducing
23 marijuana, cocaine, hashish or hashish oil into the human body, such as:
- 24 (1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without
25 screens, permanent screens, hashish heads or punctured metal bowls;
- 26 (2) Water pipes;
- 27 (3) Carburetion tubes and devices;
- 28 (4) Smoking and carburetion masks;
- 29 (5) Roach clips, meaning objects used to hold burning material, such as a
30 marijuana cigarette that has become too small or too short to be held in the hand;
- 31 (6) Miniature cocaine spoons and cocaine vials;
- 32 (7) Chamber pipes;
- 33 (8) Carburetor pipes;
- 34 (9) Electric pipes;
- 35 (10) Air-driven pipes;
- 36 (11) Chillums;
- 37 (12) Bongs; or

1 (13) Ice pipes or chillers.

2 **Sec. E-6. 17-A MRSA §1111-A, sub-§§4-A and 4-B**, as enacted by PL 2011,
3 c. 464, §20, are amended to read:

4 **4-A.** Except as provided in Title 22, chapter 558-C and Title 28-A, chapter 110, a
5 person is guilty of use of drug paraphernalia if:

6 A. The person trafficks in or furnishes drug paraphernalia knowing, or under
7 circumstances when that person reasonably should know, that it will be used to plant,
8 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
9 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
10 inhale or otherwise introduce into the human body a scheduled drug in violation of
11 this chapter or Title 22, section 2383, and the person to whom that person is
12 trafficking or furnishing drug paraphernalia is:

13 (1) At least 16 years of age. Violation of this subparagraph is a Class E crime;
14 or

15 (2) Less than 16 years of age. Violation of this subparagraph is a Class D crime;
16 or

17 B. The person places in a newspaper, magazine, handbill or other publication an
18 advertisement knowing, or under circumstances when that person reasonably should
19 know, that the purpose of the advertisement, in whole or in part, is to promote the
20 sale of objects intended for use as drug paraphernalia. Violation of this paragraph is
21 a Class E crime.

22 **4-B.** Except as provided in Title 22, chapter 558-C and Title 28-A, chapter 110, a
23 person commits a civil violation if:

24 A. The person in fact uses drug paraphernalia to plant, propagate, cultivate, grow,
25 harvest, manufacture, compound, convert, produce, process, prepare, test, analyze,
26 pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into
27 the human body a scheduled drug in violation of this chapter or Title 22, section
28 2383. Violation of this paragraph is a civil violation for which a fine of \$300 must be
29 adjudged, none of which may be suspended; or

30 B. The person possesses with intent to use drug paraphernalia to plant, propagate,
31 cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare,
32 test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise
33 introduce into the human body a scheduled drug in violation of this chapter or Title
34 22, section 2383. Violation of this paragraph is a civil violation for which a fine of
35 \$300 must be adjudged, none of which may be suspended.

36 **Sec. E-7. 17-A MRSA §1117, sub-§4**, as enacted by PL 2009, c. 631, §3 and
37 affected by §51, is amended to read:

38 **4.** A person is not guilty of cultivating marijuana if the conduct is expressly
39 authorized by Title 22, chapter 558-C or is exempt from penalties pursuant to Title 28-A,
40 chapter 110.

1 D. Establishments such as farm stands and farmers' markets primarily selling fresh
2 produce not including dairy and meat products;

3 E. Establishments engaged in the washing, cleaning or sorting of whole produce,
4 provided the produce remains in essentially the same condition as when harvested.
5 The whole produce may be packaged for sale, provided that packaging is not by a
6 vacuum packaging process or a modified atmosphere packaging process;

7 F. Establishments that are engaged in the drying of single herbs that are generally
8 recognized as safe under 21 Code of Federal Regulations, Sections 182 to 189. The
9 single herbs may be packaged for sale, provided as long as that packaging is not by a
10 vacuum packaging process or a modified atmosphere packaging process; and

11 G. A primary caregiver, as defined in section 2422, subsection 8-A, conducting an
12 activity allowed in section 2423-A for a qualifying patient who is a member of the
13 family, as defined in section 2422, subsection 5-A, or member of the household, as
14 defined in section 2422, subsection 5-B, of the primary caregiver.

15 **Sec. F-5. 22 MRSA §2158**, as amended by PL 2011, c. 407, Pt. A, §3 and c. 657,
16 Pt. W, §6, is further amended to read:

17 **§2158. Addition of certain substances limited**

18 Any poisonous or deleterious substance added to any food, except ~~where~~ when such
19 substance is required in the production thereof or cannot be avoided by good
20 manufacturing practice, must be deemed to be unsafe for purposes of the application of
21 section 2156, subsection 1, paragraph B; but when such substance is so required or cannot
22 be avoided, the Commissioner of Agriculture, Conservation and Forestry shall adopt rules
23 limiting the quantity therein or thereon to such extent as the commissioner finds
24 necessary for the protection of public health, and any quantity exceeding the limits so
25 fixed must be deemed to be unsafe for purposes of the application of section 2156,
26 subsection 1, paragraph B. While such a rule is in effect limiting the quantity of any such
27 substance in the case of any food, such food may not, by reason of bearing or containing
28 any added amount of such substance, be considered to be adulterated within the meaning
29 of section 2156, subsection 1, paragraph A. In determining the quantity of such added
30 substance to be tolerated in or on different articles of food, the commissioner shall take
31 into account the extent to which the use of such substance is required or cannot be
32 avoided in the production of each such article and the other ways in which the consumer
33 may be affected by the same or other poisonous or deleterious substances. Goods that are
34 prepared by a primary caregiver under section 2152, subsection 4-A, paragraph G or in a
35 food establishment that is a licensed facility under section 2167 and that contain
36 marijuana for medical use by a qualifying patient, pursuant to chapter 558-C, or goods
37 that contain cannabis and are prepared for sale in a retail cannabis store pursuant to Title
38 28-A, chapter 110 are not considered to be adulterated under this subchapter.

39 **Sec. F-6. 26 MRSA §772, sub-§2**, as amended by PL 2009, c. 631, §47 and
40 affected by §51, is further amended to read:

41 **2. Rules; list of occupations.** The director shall adopt rules to develop and maintain
42 a list of occupations not suitable for employment of a minor. The rules must conform as

1 far as practicable to the child labor provisions of the federal Fair Labor Standards Act of
2 1938, 29 United States Code, Section 212 and any associated regulations. The rules must
3 also contain provisions prohibiting the employment of minors in places having nude
4 entertainment ~~and~~ in registered dispensaries of marijuana for medical use authorized
5 under Title 22, chapter 558-C and in cannabis establishments licensed under Title 28-A,
6 chapter 110.

7 **PART G**

8 **Sec. G-1. 25 MRSA §2003, sub-§4,** as amended by PL 1995, c. 694, Pt. D, §51
9 and affected by Pt. E, §2, is further amended to read:

10 **4. Good moral character.** The issuing authority in judging good moral character
11 shall make its determination in writing based solely upon information recorded by
12 governmental entities within 5 years of receipt of the application, including, but not
13 limited to, the following matters:

14 A. Information of record relative to incidents of abuse by the applicant of family or
15 household members, provided pursuant to Title 19-A, section 4012, subsection 1;

16 B. Information of record relative to 3 or more convictions of the applicant for crimes
17 punishable by less than one year imprisonment or one or more adjudications of the
18 applicant for juvenile offenses involving conduct that, if committed by an adult, is
19 punishable by less than one year imprisonment;

20 C. Information of record indicating that the applicant has engaged in reckless or
21 negligent conduct; or

22 D. Information of record indicating that the applicant has been convicted of or
23 adjudicated as having committed a violation of Title 17-A, chapter 45 or Title 22,
24 section 2383, or adjudicated as having committed a juvenile crime that is a violation
25 of Title 22, section 2383 or a juvenile crime that would be defined as a criminal
26 violation under Title 17-A, chapter 45 if committed by an adult.

27 Conduct allowed by Title 22, chapter 558-C or Title 28-A, chapter 110 may not be the
28 basis for a finding of a lack of good moral character.

29 **PART H**

30 **Sec. H-1. 5 MRSA §12004-I, sub-§36-F** is enacted to read:

31 **36-F.**

32 <u>Human Services</u>	<u>Prevention and</u>	<u>Expenses/Legislative</u>	<u>22 MRSA §283</u>
33	<u>Control of</u>	<u>Per Diem for</u>	
34	<u>Marijuana Use by</u>	<u>Nonsalaried</u>	
35	<u>Youth Advisory</u>	<u>Employee Members</u>	
36	<u>Council</u>		

37 **Sec. H-2. 22 MRSA §264** is enacted to read:

1 recommended it for the treatment of an ailment. The program includes the following
2 components:

3 A. An ongoing, major media campaign to:

4 (1) Encourage youth not to begin using marijuana products; and

5 (2) Reduce consumption of marijuana products by youth;

6 B. Grants for funding community-based programs aimed at prevention and control of
7 marijuana use by youth, including funding of marijuana prevention and control
8 education for those school administrative units that choose to offer such programs to
9 primary, middle and high school students and for community-based enforcement of
10 state cannabis control laws, including sales to persons under 21 years of age;

11 C. Procedures for monitoring and evaluating the program, including:

12 (1) Monitoring and maintaining the program's effectiveness through an
13 evaluation of each component;

14 (2) Assessing the prevalence of the use of marijuana products and knowledge
15 about and attitudes towards such use on a statewide and communitywide basis;
16 and

17 (3) Recommending changes to eliminate programs that are not effective and
18 focusing on initiatives that are having a measurable effect on reducing marijuana
19 consumption by youth; and

20 D. In conjunction with law enforcement and other state and federal agencies,
21 increased law enforcement efforts to increase compliance with laws regarding the
22 transportation, distribution and sale of marijuana products.

23 The center shall administer the program with review and advice provided by the advisory
24 council and may contract for professional services to carry out the program.

25 **§283. Prevention and Control of Marijuana Use by Youth Advisory Council**

26 **1. Established; duties.** The Prevention and Control of Marijuana Use by Youth
27 Advisory Council is established under Title 5, section 12004-I, subsection 36-F to review
28 the program. The advisory council shall provide advice to the Department of
29 Administrative and Financial Services, Bureau of Alcohol, Cannabis and Lottery
30 Operations in carrying out its duties under Title 28-A, chapter 110 and to the center in
31 carrying out its duties under this chapter and shall ensure coordination of the program
32 with relevant nonprofit and community agencies and the Department of Education, the
33 department and other relevant state agencies.

34 **2. Membership.** The advisory council consists of 13 members appointed as follows:

35 A. Two public health officials, appointed by the Governor;

36 B. Two representatives of nonprofit organizations involved in seeking to reduce
37 consumption of marijuana products by youth in the State, with one representative
38 appointed by the President of the Senate and one representative appointed by the
39 Speaker of the House of Representatives;

1 C. A person who designs and implements issue-oriented public health media
2 campaigns, appointed by the Governor;

3 D. Two persons involved in designing and implementing community-based
4 education programs for the prevention of use of marijuana products by youth, one
5 appointed by the President of the Senate and one appointed by the Speaker of the
6 House of Representatives;

7 E. Two members of the public, appointed jointly by the President of the Senate and
8 the Speaker of the House of Representatives;

9 F. One qualifying patient under the Maine Medical Use of Marijuana Act, appointed
10 by the Governor;

11 G. One member of a statewide association of registered dispensaries registered with
12 the department pursuant to the Maine Medical Use of Marijuana Act, appointed by
13 the Governor;

14 H. One licensed operator of a cannabis establishment licensed pursuant to the
15 Cannabis Regulation Act, appointed by the Speaker of the House of Representatives;
16 and

17 I. One medical provider who certifies patients under the Maine Medical Use of
18 Marijuana Act, appointed by the President of the Senate.

19 Members serve for 3-year terms and may be reappointed. The appointing authority shall
20 fill a vacancy on the advisory council for the remainder of the vacant term.

21 **3. Chair.** The advisory council shall choose a chair from among its members and
22 establish its procedure for reaching decisions.

23 **4. Staff assistance.** The center shall provide staff assistance to the advisory council.

24 **5. Report.** The advisory council shall report annually on the program to the
25 Governor and the Legislature by December 1st and include any recommendations or
26 proposed legislation to further the purposes of the program.

27 **6. Compensation.** Each member who is not a salaried state employee is entitled to
28 compensation as provided in Title 5, section 12004-I, subsection 36-F, following
29 approval of expenses by the director of the center.

30 **Sec. H-4. Appointments to Prevention and Control of Marijuana Use by**
31 **Youth Advisory Council.** Appointments to the Prevention and Control of Marijuana
32 Use by Youth Advisory Council established under the Maine Revised Statutes, Title 5,
33 section 12004-I, subsection 36-F pursuant to Title 22, section 283, subsection 2 must be
34 completed by October 15, 2016.

35 Notwithstanding Title 22, section 283, subsection 2, the appointing authorities for the
36 original appointments of public members of the advisory council shall designate their first
37 appointment for a one-year term, their 2nd appointment for a 2-year term and any other
38 appointments for a 3-year term.

1 **SUMMARY**

2 This bill reforms state marijuana laws by establishing an excise tax on marijuana,
3 allowing the personal use and cultivation of cannabis and allowing, regulating and
4 licensing certain commercial cannabis-related activities, while providing provisions to
5 protect persons under 21 years of age, employers and schools.

6 Part A of the bill establishes a 10% sales tax on cannabis, which is in addition to the
7 current sales and use tax. Revenue from the sales tax on cannabis is distributed on a
8 monthly basis as follows:

9 1. Ten percent each to regulate cannabis establishments; to counties and
10 municipalities, based on the ratio of sales of cannabis products in the municipality or
11 county to the sales of cannabis products in the State; to the Fund for a Healthy Maine for
12 the elderly low-cost drug program; to the Department of Education for school
13 construction; to conduct research on cannabis; to the Department of Health and Human
14 Services, Maine Center for Disease Control and Prevention for a public awareness
15 campaign to reduce the use of cannabis by persons under 21 years of age and the use of
16 alcohol and tobacco; and to the Department of Health and Human Services to obtain
17 federal funding for MaineCare; and

18 2. The balance to the General Fund.

19 Part A directs the Department of Administrative and Financial Services, Bureau of
20 Revenue Services to report annually, beginning January 30, 2017, the amount of tax
21 revenue generated and the amount distributed to each program to the joint standing
22 committees of the Legislature having jurisdiction over appropriations and financial affairs
23 and taxation matters. The bill directs the Bureau of Revenue Services to review methods
24 for ensuring that all cannabis that is sold in the State is assessed and to report its findings
25 and recommendations to the joint standing committee of the Legislature having
26 jurisdiction over taxation matters by February 15, 2017.

27 Part B removes the civil violation for possession of cannabis by adults 21 years of
28 age and older and specifies a civil fine of at least \$100 for possession of cannabis by a
29 person under 21 years of age; a judge may, as an alternative or in addition to the fine,
30 assign the person to perform work for the State, a subdivision of the State, a public entity
31 or a charity.

32 Part C of the bill establishes the Cannabis Regulation Act, which allows a person 21
33 years of age or older to possess, purchase and use cannabis within certain limits and to
34 cultivate a limited amount of cannabis for personal use. It allows a person to possess
35 cannabis paraphernalia and up to 1 ounce of cannabis. It allows a person to cultivate up to
36 3 cannabis plants and up to 6 seedlings, and to purchase up to 1 ounce of cannabis,
37 cannabis paraphernalia and cannabis seedlings from someone who is licensed to sell these
38 products. The bill imposes restrictions on cannabis use similar to those that apply to
39 tobacco use regarding smoking in public places. It requires those cultivating cannabis to
40 secure the cannabis from access by unauthorized persons and by minors.

1 Part C includes specific requirements for the operations of commercial cannabis-
2 related activities regarding the location of operations, security measures, labeling and
3 record keeping. It allows localities to limit, regulate or ban the issuance of cannabis-
4 related licenses. It further limits the number of retail cannabis stores based on the size of
5 the municipality. Enforcement and administration of the Cannabis Regulation Act is the
6 responsibility of the Department of Administrative and Financial Services, Bureau of
7 Alcoholic Beverages and Lottery Operations, which is renamed the Bureau of Alcoholic
8 Beverages, Cannabis and Lottery Operations. The bureau is required to adopt rules for
9 the licensing and regulation of cannabis establishments; upon the adoption of such rules,
10 each dispensary registered under the Maine Medical Use of Marijuana Act is granted a
11 provisional license to operate a commercial cannabis cultivation facility, a cannabis
12 product manufacturing facility and a retail cannabis store. Included in the rules must be a
13 provision giving preference for licensing to a registered dispensary under the Maine
14 Medical Use of Marijuana Act. A dispensary organized as a nonprofit corporation that
15 reorganizes under the Maine Revised Statutes, Title 13-C is deemed to be the same
16 dispensary for licensing purposes. Part C creates the Cannabis Regulation and Licensing
17 Fund to provide a funding mechanism for regulation of commercial cannabis-related
18 activities and the Cannabis Research Fund to fund research on cannabis; both funds are
19 funded by revenue from the sales tax on cannabis.

20 Part C also amends the Maine Medical Use of Marijuana Act to remove the
21 requirement that dispensaries be nonprofit corporations, remove the restriction on how
22 much marijuana may be transferred by a primary caregiver for compensation, require a
23 primary caregiver's cultivation facility to be open to reasonable inspection by the
24 Department of Health and Human Services and cap the number of primary caregivers
25 registered with the department at the number registered with the department on December
26 31, 2015.

27 Finally, Part C requires the Department of Agriculture, Conservation and Forestry to
28 adopt rules regulating the use of pesticides in cannabis cultivation operations.

29 Part D renames the Bureau of Alcoholic Beverages and Lottery Operations within the
30 Department of Administrative and Financial Services, the Bureau of Alcoholic
31 Beverages, Cannabis and Lottery Operations.

32 Part E updates the exceptions to the laws restricting possession of marijuana in the
33 Maine Criminal Code to reflect the use permitted by this legislation. Part E also provides
34 that the odor of cannabis does not create probable cause of criminal activity.

35 Part F removes provisions in the law that make licensing of industrial hemp farming
36 contingent upon federal action and that require licensees to document the type of hemp
37 planted and to provide notification of each sale. This Part also updates various provisions
38 of the Maine Revised Statutes, Title 7 and Title 22 that are affected by the enactment of
39 the Cannabis Regulation Act and amends Title 26 to prohibit the employment of a person
40 under 21 years of age in an establishment licensed for commercial cannabis-related
41 activities.

1 Part G provides that a person cannot be found to lack good moral character for
2 personal, medical or commercial marijuana activities allowed by this legislation when
3 that person is applying to obtain a permit to carry a concealed handgun.

4 Part H creates the Prevention and Control of Marijuana Use by Youth Program and
5 its administering body, the Prevention and Control of Marijuana Use by Youth Advisory
6 Council. The purpose of the program is to prevent persons under 21 years of age from
7 using marijuana products. Part H also creates the Cannabis Research Fund, which is
8 established to conduct research on cannabis.