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Legislative Document

No. 1029

S.P. 324

In Senate, March 10, 2021

**An Act To Amend the Marijuana Legalization Act and the Laws
Governing the Taxation of Marijuana**

(EMERGENCY)

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant".

DAREK M. GRANT
Secretary of the Senate

Presented by Senator LUCHINI of Hancock.

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

3 **Whereas,** licenses to authorize the cultivation, manufacture, testing and sale of adult
4 use marijuana and adult use marijuana products began to be issued in September of 2020;
5 and

6 **Whereas,** the changes to the adult use marijuana laws in this legislation are critical to
7 sustainability and growth of a critical source of revenue in the midst of an ongoing
8 economic crisis; and

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

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

14 **PART A**

15 **Sec. A-1. 28-B MRSA §501, sub-§6,** as amended by PL 2019, c. 231, Pt. B, §3, is
16 further amended to read:

17 **6. Limited authorization for sale of marijuana plants ~~and~~, marijuana seeds,**
18 **marijuana flower and marijuana trim by registered caregiver or registered**
19 **dispensary to cultivation facility licensee.** Notwithstanding any other provision of law
20 to the contrary and subject to the requirements and restrictions of this section, for a period
21 starting on the date that the department issues the first active cultivation facility license
22 under section 205, subsection 4, except as provided in paragraph A, and ending 2 years
23 after that date, a registered caregiver or a registered dispensary may sell marijuana plants
24 ~~and~~, marijuana seeds, marijuana flower and marijuana trim to a cultivation facility licensee
25 ~~that is also a registered caregiver or a registered dispensary~~ and a cultivation facility
26 licensee ~~that is also a registered caregiver or a registered dispensary~~ may purchase
27 marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim from a
28 registered caregiver or a registered dispensary. The department shall post on its publicly
29 accessible website information regarding the date on which the department issues the first
30 active cultivation facility license and the date that is 2 years after the date the first active
31 cultivation facility license is issued.

32 A. Beginning on the date that the department issues the first active cultivation facility
33 license and, except as provided by the department by rule pursuant to this paragraph,
34 ending 2 years after that date, in an active cultivation facility license issued to any
35 cultivation facility licensee that has demonstrated to the department's satisfaction that
36 ~~the licensee is also a registered caregiver or a registered dispensary,~~ the department
37 shall include language authorizing the licensee, at any time within the licensee's first
38 year of licensure and prior to the expiration of the authorized transfer period, to
39 purchase an unlimited number of marijuana plants and marijuana seeds ~~and an~~
40 unlimited amount of marijuana flower and marijuana trim from registered caregivers
41 and registered dispensaries. This authorization may not be included in any license
42 issued upon renewal under section 209. The department may by rule extend the end
43 date for the authorized transfer period under this subsection beyond 2 years after the

1 date the department issues the first active cultivation facility license. If the department
2 adopts by rule a later end date for the authorized transfer period under this paragraph,
3 beginning on the effective date of the rule, the department shall use that later end date
4 in providing the authorization that may be granted pursuant to this paragraph to a
5 cultivation facility licensee.

6 B. A cultivation facility licensee authorized pursuant to paragraph A to purchase
7 marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim from
8 registered caregivers and registered dispensaries that transacts such a purchase shall
9 pay to the State Tax Assessor the excise taxes imposed pursuant to Title 36, chapter
10 723 on the sale of the marijuana plants ~~and~~, marijuana seeds, marijuana flower and
11 marijuana trim. In addition to payment of the required excise taxes under this
12 paragraph, the cultivation facility licensee shall provide the department with an
13 accounting of the transaction, which must include information on the registered
14 caregiver or registered dispensary from which the licensee purchased the marijuana
15 plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim; the number of
16 mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds
17 purchased in the transaction; the amount, by weight, of marijuana flower and marijuana
18 trim purchased in the transaction; and any other information required by the department
19 by rule.

20 C. A cultivation facility licensee authorized pursuant to paragraph A to purchase
21 marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana trim from
22 registered caregivers and registered dispensaries may purchase an unlimited number of
23 marijuana plants and marijuana seeds and an unlimited amount of marijuana flower
24 and marijuana trim from more than one registered caregiver or registered dispensary
25 and may transact more than one purchase of marijuana plants and marijuana seeds such
26 items from a registered caregiver or registered dispensary. Until October 1, 2021, a
27 registered caregiver or registered dispensary may not sell marijuana plants and,
28 marijuana seeds, marijuana flower and marijuana trim to more than one cultivation
29 facility licensee authorized pursuant to paragraph A to purchase ~~marijuana plants and~~
30 ~~marijuana seeds~~ such items from registered caregivers and registered dispensaries and
31 may ~~not~~ transact more than one sale of ~~marijuana plants and marijuana seeds~~ such items
32 to a cultivation facility licensee authorized to make such purchases pursuant to
33 paragraph A. The department may by rule extend the end date by which a registered
34 caregiver or registered dispensary may make unlimited authorized transfers to
35 cultivation facility licensees beyond October 1, 2021.

36 (1) If the department adopts by rule a later end date for the unlimited authorized
37 transfers by registered caregivers and registered dispensaries under this paragraph,
38 beginning on the effective date of the rule, the department shall use that later end
39 date.

40 (2) If the department does not adopt by rule a later end date for the unlimited
41 authorized transfers by registered caregivers and registered dispensaries under this
42 paragraph, any registered caregiver or registered dispensary that has already made
43 a transfer or transfers under this paragraph may make one additional authorized
44 transfer to one cultivation facility licensee under this paragraph after October 1,
45 2021. Any registered caregiver or registered dispensary that has not made an
46 authorized transfer before October 1, 2021 may make one authorized transfer to

1 one cultivation facility licensee until such transfers are no longer permitted under
2 paragraph A.

3 D. A cultivation facility licensee that violates this subsection or the rules adopted
4 pursuant to this subsection is subject to the imposition by the department of monetary
5 penalties, a license revocation or suspension and an order directing the destruction of
6 unauthorized marijuana plants ~~and~~, marijuana seeds, marijuana flower and marijuana
7 trim pursuant to subchapter 8 in addition to any criminal or civil penalties that may be
8 imposed pursuant to other applicable laws or rules. A registered caregiver or registered
9 dispensary that violates ~~paragraph C~~ this subsection or the rules adopted pursuant to
10 this subsection is subject to the revocation of its registration or other applicable penalty
11 under the Maine Medical Use of Marijuana Act in addition to any criminal or civil
12 penalties that may be imposed pursuant to other applicable laws or rules.

13 The department shall adopt rules to implement this subsection. Rules adopted pursuant to
14 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
15 2-A.

16 PART B

17 **Sec. B-1. 36 MRSA §4923, sub-§5**, as enacted by PL 2019, c. 231, Pt. B, §7, is
18 amended to read:

19 **5. Excise tax on purchases from registered caregivers and registered dispensaries.**

20 A cultivation facility licensee authorized pursuant to Title 28-B, section 501, subsection 6,
21 paragraph A to purchase marijuana plants ~~and~~, marijuana seeds, marijuana flower and
22 marijuana trim from registered caregivers and registered dispensaries that transacts such a
23 purchase shall pay to the assessor the excise taxes that would have been imposed under
24 subsections 1 to 4 on the sale of the marijuana plants ~~and~~, marijuana seeds, marijuana
25 flower and marijuana trim if the marijuana plants ~~and~~, marijuana seeds, marijuana flower
26 and marijuana trim had been sold by a cultivation facility licensee to another licensee.

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

29 SUMMARY

30 This bill makes the following changes to the Marijuana Legalization Act and the laws
31 governing the taxation of marijuana.

32 1. It permits an adult use cultivation facility licensee to accept from registered
33 caregivers and registered dispensaries unlimited transfers of marijuana plants, marijuana
34 seeds, marijuana flower and marijuana trim until 2 years after the date the Department of
35 Administrative and Financial Services issues the first active cultivation facility license or
36 a later date set in rule by the department. It permits registered caregivers and registered
37 dispensaries to transfer an unlimited number of marijuana plants and marijuana seeds and
38 an unlimited amount of marijuana flower and marijuana trim to an adult use cultivation
39 facility licensee until October 1, 2021 or a later date set in rule by the department. If the
40 department does not extend by rule the date by which a registered caregiver or registered
41 dispensary may make unlimited authorized transfers to adult use cultivation facility
42 licensees, a registered caregiver or registered dispensary that has already made an
43 authorized transfer may make one more authorized transfer and a registered caregiver or

1 registered dispensary that has not made an authorized transfer may make one authorized
2 transfer to an adult use cultivation facility licensee.

3 2. It requires cultivation facility licensees to remit excise taxes on transfers of
4 marijuana flower and marijuana trim received from a registered caregiver or registered
5 dispensary.