



131st MAINE LEGISLATURE

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Legislative Document

No. 1647

H.P. 1057

House of Representatives, April 12, 2023

**An Act to Prohibit Discrimination Against Cannabis Establishment
Owners and Employees and Cannabis Users**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R(t) B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BOYER of Poland.
Cosponsored by Senator BRAKEY of Androscoggin and
Representatives: ANDREWS of Paris, DANA of the Passamaquoddy Tribe, FAULKINGHAM
of Winter Harbor, MILLIKEN of Blue Hill, WHITE of Guilford, WILLIAMS of Bar Harbor.

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

2 **Sec. 1. 28-B MRSA §114** is enacted to read:

3 **§114. Protections for authorized activity and cannabis users**

4 **1. Right of persons acting pursuant to this chapter.** Except as provided in subsection
5 3, a person whose conduct is authorized under this chapter, solely for lawfully engaging in
6 the authorized conduct, may not be denied any right or privilege by the State, an agency or
7 department of the State including a regulatory agency or business or professional licensing
8 board or bureau, a municipality or other political subdivision, business or employer,
9 including:

10 A. Denying the person any right or privilege in employment;

11 B. Subjecting the person to arrest or prosecution, including being subject to a civil
12 penalty;

13 C. Subjecting the person to disciplinary action, including denying, modifying,
14 suspending or revoking the person's professional or business license;

15 D. Denying, modifying, suspending or revoking the person's driver's license, housing
16 assistance, social services or any other benefit;

17 E. Being discriminated against by a school, employer or landlord in a manner
18 prohibited against a qualifying patient or caregiver under Title 22, section 2430-C,
19 subsection 3;

20 F. Denying the parental rights and responsibilities of a person in a manner prohibited
21 under Title 22, section 2430-C, subsection 4 against a person acting in accordance with
22 Title 22, chapter 558-C;

23 G. Determining the person unsuitable to receive an anatomical gift in a manner
24 prohibited against a qualifying patient under Title 22, section 2430-C, subsection 5;

25 H. Seizing and retaining the cannabis of the person by a law enforcement officer as
26 prohibited against a qualifying patient, caregiver, cannabis testing facility,
27 manufacturing facility or registered dispensary under Title 22, section 2430-C,
28 subsection 6; or

29 I. Denying any other right or privilege to which the person is otherwise entitled for the
30 reason that the person does not possess or exhibit good moral character.

31 **2. Rights of persons who use cannabis as authorized pursuant to this chapter.**

32 Except as provided in subsection 3, a person who is 21 years of age or older who uses adult
33 use cannabis or adult use cannabis products pursuant to this chapter, solely due to the
34 presence of cannabinoids or cannabinoid metabolites in the urine, blood, saliva, breath, hair
35 or any other tissue or fluid of the person, may not be denied any right or privilege by the
36 State, an agency or department of the State including a regulatory agency or business or
37 professional licensing board or bureau, a municipality or other political subdivision,
38 business or employer, including:

39 A. Denying the person any right or privilege in employment;

40 B. Subjecting the person to arrest or prosecution, including being subject to a civil
41 penalty;

- 1 C. Subjecting the person to disciplinary action, including denying, modifying,
2 suspending or revoking the person's professional or business license;
- 3 D. Denying, modifying, suspending or revoking the person's driver's license, housing
4 assistance, social services or any other benefit;
- 5 E. Being discriminated against by a school, employer or landlord in a manner
6 prohibited against a qualifying patient or caregiver under Title 22, section 2430-C,
7 subsection 3;
- 8 F. Denying the parental rights and responsibilities of a person in a manner prohibited
9 under Title 22, section 2430-C, subsection 4 against a person acting in accordance with
10 Title 22, chapter 558-C;
- 11 G. Determining the person unsuitable to receive an anatomical gift in a manner
12 prohibited against a qualifying patient under Title 22, section 2430-C, subsection 5;
- 13 H. Seizing and retaining the cannabis of the person by a law enforcement officer as
14 prohibited against a qualifying patient, caregiver, cannabis testing facility,
15 manufacturing facility or registered dispensary under Title 22, section 2430-C,
16 subsection 6; or
- 17 I. Denying any other right or privilege to which the person is otherwise entitled for the
18 reason that the person does not possess or exhibit good moral character.

19 **3. Probable cause or reasonable suspicion.** Except as provided in this subsection, the
20 following may not constitute in part or in whole probable cause or reasonable suspicion
21 and may not be used as a basis to support any stop or search of a person or motor vehicle:

- 22 A. The odor of cannabis;
- 23 B. The odor of burnt cannabis;
- 24 C. The possession of or the suspicion of possession of cannabis or cannabis
25 concentrate;
- 26 D. The presence of cash or currency in proximity to cannabis or cannabis concentrate;
27 or
- 28 E. The planting, cultivating, harvesting, drying, processing or possessing of cultivated
29 cannabis in accordance with this chapter.

30 Paragraph B does not apply when a law enforcement officer is investigating whether a
31 person is hunting or operating a motor vehicle, watercraft, ATV or snowmobile while
32 impaired by drugs or under the combined influence of drugs or of alcohol and any drug or
33 drugs in violation of Title 29-A, chapter 23 or Title 12, chapter 911. During an investigation
34 under this subsection, the odor of burnt cannabis may not constitute probable cause to
35 search any area of a motor vehicle, watercraft, ATV or snowmobile that is not readily
36 accessible to the operator and reasonably likely to contain evidence relevant to the
37 operator's condition. For purposes of this paragraph, "ATV" has the same meaning as in
38 Title 12, section 13001, subsection 3.

39 **4. Requirements for protection.** To receive protection under this section for conduct
40 authorized under this chapter, a person must present upon request of a law enforcement
41 officer a valid government-issued photographic identification card, or other acceptable
42 photographic identification, demonstrating that the person is 21 years of age or older.

1 **5. Exceptions.** The provisions of this section do not apply to:
2 A. Employment policies under section 112; or
3 B. Except as provided in subsection 3, a violation or offense under Title 29-A, chapter
4 23 or Title 12, chapter 911.

5 **6. Enforcement.** A person aggrieved by a violation of subsection 1, 2 or 3 may bring
6 an action in either Superior Court or District Court for equitable relief, including an
7 injunction.

8 **Sec. 2. 28-B MRSA §1505** is enacted to read:

9 **§1505. Protections for authorized activity and cannabis users**

10 **1. Right of persons acting pursuant to this chapter.** Except as provided in subsection
11 3, a person whose conduct is authorized under this chapter, solely for lawfully engaging in
12 the authorized conduct, may not be denied any right or privilege by the State, an agency or
13 department of the State including a regulatory agency or business or professional licensing
14 board or bureau, a municipality or other political subdivision, business or employer,
15 including:

- 16 A. Denying the person any right or privilege in employment;
- 17 B. Subjecting the person to arrest or prosecution, including being subject to a civil
18 penalty;
- 19 C. Subjecting the person to disciplinary action, including denying, modifying,
20 suspending or revoking the person’s professional or business license;
- 21 D. Denying, modifying, suspending or revoking the person’s driver’s license, housing
22 assistance, social services or any other benefit;
- 23 E. Being discriminated against by a school, employer or landlord in a manner
24 prohibited against a qualifying patient or caregiver under Title 22, section 2430-C,
25 subsection 3;
- 26 F. Denying the parental rights and responsibilities of a person in a manner prohibited
27 under Title 22, section 2430-C, subsection 4 against a person acting in accordance with
28 Title 22, chapter 558-C;
- 29 G. Determining the person unsuitable to receive an anatomical gift in a manner
30 prohibited against a qualifying patient under Title 22, section 2430-C, subsection 5;
- 31 H. Seizing and retaining the cannabis of the person by a law enforcement officer as
32 prohibited against a qualifying patient, caregiver, cannabis testing facility,
33 manufacturing facility or registered dispensary under Title 22, section 2430-C,
34 subsection 6; or
- 35 I. Denying any other right or privilege to which the person is otherwise entitled for the
36 reason that the person does not possess or exhibit good moral character.

37 **2. Rights of persons who use cannabis as authorized pursuant to this chapter.**
38 Except as provided in subsection 3, a person who is 21 years of age or older who uses adult
39 use cannabis or adult use cannabis products pursuant to this chapter, solely due to the
40 presence of cannabinoids or cannabinoid metabolites in the urine, blood, saliva, breath, hair
41 or any other tissue or fluid of the person, may not be denied any right or privilege by the

1 State, an agency or department of the State including a regulatory agency or business or
2 professional licensing board or bureau, a municipality or other political subdivision,
3 business or employer, including:

4 A. Denying the person any right or privilege in employment;

5 B. Subjecting the person to arrest or prosecution, including being subject to a civil
6 penalty;

7 C. Subjecting the person to disciplinary action, including denying, modifying,
8 suspending or revoking the person's professional or business license;

9 D. Denying, modifying, suspending or revoking the person's driver's license, housing
10 assistance, social services or any other benefit;

11 E. Being discriminated against by a school, employer or landlord in a manner
12 prohibited against a qualifying patient or caregiver under Title 22, section 2430-C,
13 subsection 3;

14 F. Denying the parental rights and responsibilities of a person in a manner prohibited
15 under Title 22, section 2430-C, subsection 4 against a person acting in accordance with
16 Title 22, chapter 558-C;

17 G. Determining the person unsuitable to receive an anatomical gift in a manner
18 prohibited against a qualifying patient under Title 22, section 2430-C, subsection 5;

19 H. Seizing and retaining the cannabis of the person by a law enforcement officer as
20 prohibited against a qualifying patient, caregiver, cannabis testing facility,
21 manufacturing facility or registered dispensary under Title 22, section 2430-C,
22 subsection 6; or

23 I. Denying any other right or privilege to which the person is otherwise entitled for the
24 reason that the person does not possess or exhibit good moral character.

25 **3. Probable cause or reasonable suspicion.** Except as provided in this subsection, the
26 following may not constitute in part or in whole probable cause or reasonable suspicion
27 and may not be used as a basis to support any stop or search of a person or motor vehicle:

28 A. The odor of cannabis;

29 B. The odor of burnt cannabis;

30 C. The possession of or the suspicion of possession of cannabis or cannabis
31 concentrate;

32 D. The presence of cash or currency in proximity to cannabis or cannabis concentrate;
33 or

34 E. The planting, cultivating, harvesting, drying, processing or possessing of cultivated
35 cannabis in accordance with this chapter.

36 Paragraph B does not apply when a law enforcement officer is investigating whether a
37 person is hunting or operating a motor vehicle, watercraft, ATV or snowmobile while
38 impaired by drugs or under the combined influence of drugs or of alcohol and any drug or
39 drugs in violation of Title 29-A, chapter 23 or Title 12, chapter 911. During an investigation
40 under this subsection, the odor of burnt cannabis may not constitute probable cause to
41 search any area of a motor vehicle, watercraft, ATV or snowmobile that is not readily

1 accessible to the operator and reasonably likely to contain evidence relevant to the
2 operator's condition. For purposes of this paragraph, "ATV" has the same meaning as in
3 Title 12, section 13001, subsection 3.

4 **4. Requirements for protection.** To receive protection under this section for conduct
5 authorized under this chapter, a person must present upon request of a law enforcement
6 officer a valid government-issued photographic identification card, or other acceptable
7 photographic identification, demonstrating that the person is 21 years of age or older.

8 **5. Exceptions.** The provisions of this section do not apply to:

9 A. Employment policies under section 112; or

10 B. Except as provided in subsection 3, a violation or offense under Title 29-A, chapter
11 23 or Title 12, chapter 911.

12 **6. Enforcement.** A person aggrieved by a violation of subsection 1, 2 or 3 may bring
13 an action in either Superior Court or District Court for equitable relief, including an
14 injunction.

15 SUMMARY

16 This bill provides protections for a person engaged in authorized activities involving
17 or using adult use cannabis or adult use cannabis products from being denied any right or
18 privilege or being subject to arrest, prosecution or disciplinary action by a business or
19 governmental entity, including regarding a driver's license or professional or business
20 license, being discriminated against by a school, employer or landlord, being denied
21 parental rights and responsibilities, being determined unsuitable for an anatomical gift,
22 having cannabis seized or retained by a law enforcement officer or being denied any right
23 or privilege by reason of not possessing or exhibiting good moral character, solely for
24 engaging in authorized adult use cannabis or adult use cannabis products activities or for
25 the presence of cannabinoids or cannabinoid metabolites in the person's system. This bill
26 exempts from these provisions certain employment policies and violations of the laws
27 prohibiting hunting or operating a motor vehicle, watercraft, ATV or snowmobile while
28 under the influence.

29 The bill also prohibits using the odor of cannabis or burnt cannabis, the possession of
30 cannabis or currency in proximity to cannabis or the planting, cultivating or processing of
31 cannabis as probable cause or reasonable suspicion except, in some cases, during an
32 investigation by a law enforcement officer of an operating under the influence offense.