

# 2021 Maine Cannabis Business Webinar Series

# Maine Legislative Review and OMP Update

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A link to the slides from today's presentation will be sent to  
all attendees following this event

# Agenda

## Part 1

### Legislative Review

*Dan Walker*

## Part 2

### OMP Update

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# Legislative Review

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## LD 33

### **Resolve, Directing The Department Of Agriculture, Conservation And Forestry To Seek Input From Stakeholders On The State's Hemp Program.**

*Signed by the Governor, Resolve Chapter 32 (6/10)*

- DACF shall meet with and seek input from stakeholders on the USDOA Domestic Hemp Production Program requirements.
- DACF shall study and monitor other state hemp programs, including those in federal compliance and those not.
- DACF shall submit report with findings and recommendations to ACF Committee by 12/15/21.
- ACF Committee may submit a bill next session regarding this subject matter.

# LD 605

## **An Act To Amend The Marijuana Legalization Act.**

*Signed by the Governor (Emergency Measure) Public Law 2021, Chapter 226 (6/16)*

- Strikes the requirement that sample collector licensees obtain from MRS a sales tax ID number;
- Repeals the 10/1/21 sunset on the provision that permits cultivation and manufacturing facility licensees to collect and transport samples of marijuana and marijuana products for mandatory testing (“self-sampling”).

# LD 871

## An Act To Clarify Certain Provisions Regarding The Marijuana Excise Tax.

*Signed by the Governor (Emergency Measure) Public Law Chapter 323 (6/22)*

- Codifies a previous practice of OMP that wet weight conversion formula promulgated by the OMP, "Emergency Rule Regarding the Imposition of Excise Taxes on Sales, Purchases and Transfers of Adult Use Marijuana," which provides for a 75% reduction in the wet weight of marijuana flower and trim transferred by cultivation facility licenses (i.e. "fresh frozen" marijuana);
- Changes the excise tax on mature marijuana plants transferred to or from an adult use cultivation facility licensee from a weight-based tax to a per plant tax of \$35 per mature marijuana plant.

# LD 881

## An Act To Make Technical Changes To The Maine Medical Use Of Marijuana Act

*Signed by the Governor (Emergency Measure) Public Law Chapter 251 (6/17)*

- Provides for a universal definition of “seedling” in both the Maine Medical Use of Marijuana Program (MMUMP) and the Adult Use Program, which is a marijuana plant or rooted cutting that is not flowering, less than 24 inches in height, and less than 24 inches in width.
- This will affect at what point individual plants are required to be tagged and tracked in the Metrc (state’s inventory tracking system). OMP will allow licensees to continue to tag and track smaller plants in the Metrc in accordance with existing practices.

# LD 882 (SP 296)

## Resolve, To Direct The Office Of Marijuana Policy To Convene Stakeholder Meetings Regarding The Maine Medical Use Of Marijuana Program

*Became Law without Governor's Signature Resolve Chapter 95 (6/26)*

- Originally submitted by OMP and entitled, "An Act to Amend the Maine Medical Use of Marijuana Act," the bill would have authorized OMP to administer an array of penalties with the MMUMP, as currently the only penalty provided to OMP is license revocation.
- Amended to change the title, and replaced the bill with a resolve, directing OMP to convene meetings with stakeholders with the State's medical marijuana industry to "study, review and evaluate any changes or updates that may be necessary to the State's medical use of marijuana program."



# LD 939

## An Act To Support Maine's Medical Marijuana Program And Ensure Patient Access

*Became Law without Governor's Signature Public Law Chapter 367 (6/26)*

- Allows caregivers and dispensaries to employ assistants who are between 18 and 21 years of age, if they are also a member of the family of the caregiver, and clarifies that assistants hired by caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities must otherwise be 21 years of age or older.
- Allows registered caregivers and dispensaries to transfer to, and accept from, another registered caregiver or a dispensary an unlimited amount of marijuana plants and harvested marijuana in a wholesale transaction.
- Allows acceptance of a digital image of a written certification for the purposes of initiating a transaction for harvested marijuana and requires verification of the written certification in person before transferring any harvested marijuana to the qualifying patient.

## LD 939 (cont.)

- Allows registration identification cards and criminal history record checks to be valid for one year regardless of employment status.
- Removes the provision allowing OMP to adopt rules allowing advertising or marketing using location-based services if the marketing is a mobile device application installed on a device by the owner of the device who is 21 years of age or older if it includes a permanent and easy opt-out feature. It provides instead that OMP may adopt rules allowing advertising or marketing using location-based services if such marketing includes a permanent and easy opt-out feature and the owner of the device is 21 years of age or
- Changes the period of time registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities must keep records from 7 years to 2 years.

# LD 1242

## An Act To Amend The Maine Medical Use Of Marijuana Act

*Became Law without Governor's Signature (Emergency Measure) Public Law Chapter 387 (7/1)*

- Changes designation of rules governing the medical use of marijuana from routine technical to major substantive beginning July 1, 2021;
- Provides that the Department of Administrative and Financial Services' rules governing the medical use of marijuana are those that were in effect on February 28, 2021;

## LD 1242 (cont.)

- Requires that before provisionally adopting new rules, including but not limited to rules necessary to implement a statewide electronic portal through which registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities may submit certain records, OMP must:
  - A. Develop a process to consult with caregivers, registered caregivers, qualifying patients and medical providers with significant knowledge and experience certifying patients under the Maine Medical Use of Marijuana Act, in accordance with the Maine Revised Statutes, Title 22, section 2422-A, subsection 2;
  - B. Develop a process to use when hiring consultants to advise on any new rules or proposed changes to existing rules governing the medical use of marijuana, in accordance with Title 22, section 2422-A, subsection 2; and
  - C. Using existing resources, conduct a study evaluating the economic effects that any new rules or proposed changes to existing rules may have, including but not limited to, the effects of implementing a statewide electronic portal on caregiver businesses of all sizes and how such rules could affect the access of patients to marijuana for medical use.

## LD 1242 (cont.)

- OMP is required to submit a report including the processes developed and the findings evaluated to the VLA Committee no later than January 15, 2022, which is authorized to introduce legislation for presentation to the Second Regular Session of the 130th Legislature based on the information provided in the report;
- Eliminates the requirement that a registered caregiver, a registered dispensary, a marijuana testing facility and a manufacturing facility complete an annual audit conducted by a 3rd party of business transactions.

# LD 1434

## An Act Regarding Controlled Entry Areas Within Retail Marijuana Stores

*Signed by the Governor Public Law Chapter 314 (6/21)*

- Permits adult use marijuana store licensees to check customer photo ID inside the licensed premises in an area which is “physically separated from the sales area of the marijuana store.”
- Adult use retail store licensees that wish to use a “controlled entry area” within their licensed premises should update their operating and security plans through the state’s online licensing portal.

# LD 1589 (HP 1178)

## An Act To Ensure Equity In The Membership Of The Marijuana Advisory Commission

*Became Law without Governor's Signature Public Law Chapter 363 (6/24)*

- Changes the membership of the Marijuana Advisory Commission by removing the Commissioner of Labor, adding the Commissioner of Economic and Community Development and adding 6 members representing certain interests, to be appointed by the President of the Senate and the Speaker of the House, increasing the number of members from 15 to 21, must represent racial and gender diversity of the State.
  - Public member with expertise in either cultivation or manufacturing of concentrates and products.
  - Representative of statewide association of defense attorneys.
  - Representative of statewide association of civil rights organization with primary mission to advance racial equity and racial justice.
  - Qualifying patient.
  - Member of federally recognized Indian tribe in the State.
  - Representative of the state chapter of a national civil liberties organization.

# CARRIED OVER

## LD 421

An Act To Increase The Number Of Plants A Medical Marijuana Caregiver May Cultivate

## LD 1195

An Act To Increase Funding To Qualifying Municipalities By Sharing Adult Use Marijuana Sales And Excise Tax Revenue



# LD 830

## An Act To Restructure The Taxation Of Adult Use Marijuana

*On motion by Senator BREEN of Cumberland PLACED ON THE SPECIAL APPROPRIATIONS TABLE pending PASSAGE TO BE ENACTED, in concurrence. (6/8)*

- Repeals the excise tax on adult use marijuana on 1/1/22 and raises an equivalent amount of revenue by increasing the sales tax on adult use marijuana and adult use marijuana products to 20% on 1/1/22.

# DEAD BILLS

## LD 301

An Act Regarding Adult Use Marijuana

## LD 353

An Act To Establish Medical Marijuana Cooperatives

## LD 525

An Act To Allow Medical And Adult Use Marijuana Stores To Share  
A Common Space

# DEAD BILLS

## LD 613

An Act To Amend The Adult Use Marijuana Program Rules And Make Other Technical Changes

## LD 656

An Act To Strengthen The Integrity Of The Office Of Marijuana Policy

## LD 740

An Act To Provide Municipalities A Percentage Of The Revenue Generated From The Taxes Imposed On The Sale Of Recreational Marijuana In Those Municipalities

# DEAD BILLS

## LD 1029

An Act To Amend The Marijuana Legalization Act And The Laws Governing The Taxation Of Marijuana

## LD 1185

An Act To Distribute Tax Revenue To Offset Costs Incurred By Adult Use Marijuana Host Municipalities

## LD 1249

An Act Regarding The Testing And Safety Of Marijuana And Marijuana Products

# LD 1319 (SP 425)

## An Act Regarding Registered Dispensaries And Rules Under The Maine Medical Use Of Marijuana Act And The Definition Of "resident" In The Marijuana Legalization Act

*Unfinished Business (7/2)*

- Originally sponsored by a number of legislative leaders.
- Would have delayed MMUMP rules for 2 years, and then only adopt rules if conduct studies on economic impact of the rules and how the rules would affect patient access; extended repeal date for residency in AUP from 6/1/21 to 6/1/25; and limited number of dispensary registration certificates.
- Amended to make a number of fixes to the MMUMP Rules, including phasing in Metrc, minimizing regulations for home-based caregivers, etc.
- Amended version died on the table.

# DEAD BILLS

## LD 1445

An Act To Require The Testing Of Marijuana For Medical Use

## LD 1452

An Act To Amend The Law Regarding The Advertising And Marketing Of Adult Use Marijuana



# OMP Update

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## Medical Use – OMP Open Data

- 3,122 Registered Caregivers (as of June 30, 2021)
  - Down from 3,257 in 2016
  - Cumberland County – 705
  - Pis Cataquis County – 25
- 8 Registered Dispensaries
- Over 65,000 patient certificates issued in 2019
- Over 600 medical providers issuing patient certificates (as of June 30, 2021)



## Adult Use – OMP Open Data

- Active licenses
  - 40 Cultivation
  - 22 Manufacturing
  - 42 Retail Stores
  - 3 Testing
- Conditional licenses
  - 182 Cultivation
  - 73 Manufacturing
  - 190 Retail Stores
  - 3 Testing

## June 2021 Adult Use Sales Figures

- Total Number of Monthly Retail Sales Transactions in Adult Use Market = 86,410 (June 2021)
- Total Adult Use Sales in June 2021 = \$6,470,963
  - \$3,830,664 in useable cannabis (flower, pre-rolls, shake/trim)
  - \$1,453,364 in concentrate (vape products, etc.)
  - \$1,186,935 in infused product (edibles, drinks, capsules, topicals, etc.)
- Total sales since inception of AU market in October of 2020 = \$29,244,857

# Comparison of License Types

Requirement	Caregiver	Dispensary	Adult Use
<b>Definition</b>	<p>Natural person who is a resident of Maine (or an entity owned solely by such person) and over the age of 21 who cultivates, manufactures, wholesales, and/or distributes plants, harvested marijuana, and/or supplies to patients and/or caregivers.</p> <p>May run a vertically integrated operation (i.e. cultivation, manufacturing, and retail store) under a single license.</p>	<p>Entity that cultivates, manufactures, wholesales, and/or distributes plants, harvested marijuana, and/or supplies to patients and/or caregivers.</p> <p>May run a vertically integrated operation (i.e. cultivation, manufacturing, and retail store) under a single license.</p>	<p>Entity that cultivates, manufactures, wholesales, and/or distributes plants, harvested marijuana, and/or supplies to adult use marijuana purchasers and/or other adult use licensees.</p> <p>Requires multiple licenses to achieve vertical integration. Separate licenses are required for each different type of activity (i.e. cultivation, manufacturing, and retail store).</p>

# Business Entity Restrictions

Requirement	Caregiver	Dispensary	Adult Use
<b>Business Entity Restrictions</b>	<p>One entity per individual caregiver owner. Caregiver must be sole owner. Caregiver must be over the age of 21 and a Maine resident. Must be a Maine entity.</p>	<p>No restrictions on number of owners but every “officer or director” of the business must be a Maine resident. Officer or director is defined broadly to include all owners and all persons with a management position, including employees and consultants. Must be a Maine entity.</p> <p>Residency challenge currently pending in federal court.</p>	<p>No restrictions on number of owners. No OMP enforcement of residency requirement.</p>

Requirement	Caregiver	Dispensary	Adult Use
<b>Collectives</b>	Physical assistance by multiple caregivers with respect to the acts of cultivation, manufacturing, or distribution for the benefit of the collective is prohibited. Two caregivers who are members of the same family or household may share the same cultivation area but plants must be physically segregated and each caregiver is independently responsible for compliance, including separate storage and tracking.	No prohibitions on collectives. Multiple owners are allowed.	No prohibitions on collectives. Multiple owners are allowed.

# Residency

Requirement	Caregiver	Dispensary	Adult Use
<b>Residency</b>	Caregiver owner must be a Maine resident.	Officers or directors must be Maine residents. Officer or director is defined broadly to include all owners and all persons with a management position, including employees and consultants.  Residency challenge pending in federal court.	No residency requirement.

# Plant Canopy and Cultivation Caps

Requirement	Caregiver	Dispensary	Adult Use
<b>Plant Canopy and Cultivation Caps</b>	Limited to 30 mature plants or 500 square feet of plant canopy, 60 immature plants and unlimited seedlings.	No cap on amount of plant canopy. Limited to one cultivation facility per license.	Cultivation facility licenses are issued by Tiers. Tier 1 allows 30 mature plants and unlimited immature plants and seedlings or up to 500 square feet of plant canopy. Tier 2 allows up to 2,000 feet of plant canopy. Tier 3 allows up to 7,000 feet of plant canopy. Tier 4 allows up to 20,000 feet of plant canopy. Every two years, a licensee seeking renewal of a Tier 4 cultivation facility license may apply to increase total plant canopy by 7,000 square feet.

# Retail Store Caps

Requirement	Caregiver	Dispensary	Adult Use
<b>Retail Store Cap</b>	May only operate one retail store per caregiver registration.	One retail store is allowed per dispensary registration. The same entity may obtain multiple dispensary licenses with no cap.	One retail store is allowed per license with a cap of 4 total retail store licenses. The 4-store cap goes away on January 1, 2022.



# Who may purchase?

Requirement	Caregiver	Dispensary	Adult Use
<b>Patients</b>	Retail sales limited to medical patients.	Retail sales limited to medical patients.	Retail sales allowed to anyone over the age of 21. Must have retail store license to sell directly to consumers.

# Testing

Requirement	Caregiver	Dispensary	Adult Use
<b>Testing</b>	If cannabinoid profile or potency is included on product label, then testing is required by statute.	If cannabinoid profile or potency is included on product label, then testing is required by statute.	Testing is mandatory

# Packaging

Requirement	Caregiver	Dispensary	Adult Use
<b>Packaging</b>	Child-resistant and tamper-evident packaging is required.	Child-resistant and tamper-evident packaging is required.	Child-resistant and tamper-evident packaging is required.

# Inventory Tracking

Requirement	Caregiver	Dispensary	Adult Use
<b>Inventory Tracking</b>	Use of OMP's inventory tracking system is <u>not</u> required.	Use of OMP's inventory tracking system is <u>not</u> required.	Use of OMP's inventory tracking system is required.  In July 2021, OMP published Maine's Getting Started Guide: Inventory Tracking System.

# Licensing Fees

Requirement	Caregiver	Dispensary	Adult Use
Licensing Fees	\$1,500 for 500 square feet of canopy	\$12,000 annually plus \$4,000 for any change of physical location	Fees vary based on number and types of facilities needed. E.g. Tier 4 cultivation facility license for an indoor grow is \$30,000. A marijuana retail store license is \$2,500.

# Wholesales

Requirement	Caregiver	Dispensary	Adult Use
<b>Wholesales</b>	Permitted, but only to others in the medical program. Sales between medical and adult use programs not allowed (subject to one time transfer rule).	Permitted, but only to others in the medical program. Sales between medical and adult use programs not allowed (subject to one time transfer rule).	Permitted, but only to others in the adult use program. Sales between medical and adult use programs not allowed (subject to one time transfer rule).

# E-commerce

Requirement	Caregiver	Dispensary	Adult Use
<b>E-commerce</b>	<p>Use of “Internet-based sales platform” is prohibited.</p> <p>Website is allowed.</p>	<p>Use of “Internet-based sales platform” is prohibited.</p> <p>Website is allowed.</p>	<p>Use of “Internet-based sales platform” is prohibited.</p> <p>Website is allowed.</p>

# Delivery

Requirement	Caregiver	Dispensary	Adult Use
Delivery Service	Permitted	Permitted	Not permitted



# Taxes

Requirement	Caregiver	Dispensary	Adult Use
<b>Taxes</b>	Sales tax only (8% on prepared food (including baked goods, granola, etc.); 5.5% on everything else, including candy and beverages)	Sales tax only (8% on prepared food (including baked goods, granola, etc.); 5.5% on everything else, including candy and beverages)	State sales and excise taxes will be imposed (20% combined effective tax rate)

# Q&A

# Thank You!



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