

Maine Legislative and Regulatory Update

— June 2022 —

Dan Walker, Partner, Preti Flaherty

Erik Gundersen, Director, Office of Cannabis Policy

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

The Second Regular Session of the 130th Maine Legislature

Cannabis Legislative Updates

Second Regular Session: Veterans and Legal Affairs Committee Members

- Senator Hickman (D) (Chair)
- Senator Brad Farrin (R)*
- Senator Dave Miramant (D)*
- Representative Chris Caiazzo (D) (Chair)
- Representative Patrick Corey (R)*
- Representative Josanne Dolloff (R)
- Representative Matthew Harrington (R)*
- Representative MaryAnne Kinney (R)*
- Representative Jay McCreight (D)*
- Representative Morgan Rielly (D)
- Representative Laura Supica (D)
- Representative Barbara Wood (D)^

Senator Luchini was on the VLA committee, but he resigned from the Legislature in January 2022

Representative Tuttle was also on the VLA committee, but passed away in January 2022

*Termed out

^Not running for re-election

An Act To Promote Equity and Increase Opportunities in the Cannabis Industry by Reducing Restrictions Related to Convictions for Drug Offenses and To Replace the Term "Marijuana" with the Term "Cannabis" in the Maine Revised Statutes, P.L. 2021, ch. 669 (LD 1957)

Sponsor – Rep. Rachel Talbot Ross (D-Portland)

Divided Report out of the committee of OTP-AM (8)
/ONTP (1)

- Became Law without the Governor’s Signature on April 26, 2022 and will go into effect Monday, August 8, 2022.

OCP has begun the process of transitioning to the use of term “cannabis” in all its external publications and communications and will continue that work over the next several months.

- Excludes cannabis-related crimes that would have been authorized under the Marijuana Legalization Act or Maine Medical Use of Marijuana Act from the definition of “disqualifying drug offense”
- Reduces look-back period for exclusion due to other disqualifying drug offenses from 10 years to 5 years after completion of sentence.
- Requires OCP to change the term “marijuana” to the term “cannabis” in all rules, policies and publications developed by OCP.
- Directs the revision of the Maine Revised Statutes (except for the Maine Criminal Code) to replace references to “marijuana” with the term “cannabis”.

Adult Use Cannabis Program

Maine voters approved the recreational use, retail sale and taxation of cannabis in November 2016. After work to develop a regulatory structure from the Legislature and the Office of Cannabis Policy, the first active adult use establishment licenses — including the first cultivation licenses — were issued in September 2020.



Erik Gundersen

**Director
Office of Cannabis Policy**

207.287.3282 erik.gundersen@maine.gov

An Act To Allow the State's Adult Use Marijuana Tracking System To Track Plants and Products by Group, P.L. 2021, ch. 628 (LD 1817)

Sponsor – Rep. Laura Supica (D-Bangor)

Unanimous Report out of the committee of OTP-AM

- Signed by Governor Mills on April 18, 2022 and will go into effect Monday, August 8, 2022.

OCP intends to begin rulemaking this summer.

- Permits adult use cultivation facility licensees to track, as one group, cannabis plants that are:
 - At the same stage of growth and the same varietal or cultivar; and Planted and/or transplanted in the same specific area (grow room) at the same time.
 - Intended for harvest as a group
- Prohibits OCP from requiring cultivation facility licensees to affix an inventory tracking tag to each individual plant included in a specified “group”.
 - When transferring as a group, must provide manifest listing every plant within the group.
- Requires OCP to solicit and review feedback regarding the functionality of the existing inventory tracking system vendor and to report back to the 131st Legislature regarding those efforts. Will be convening a stakeholder group this summer.

An Act To Allow for a Variance Rate in the Amount and Potency of Cannabinoids in Adult Use Edible Marijuana Products, [P.L. 2021, ch. 558 \(LD 1846\)](#)

Sponsor – Rep. Joe Perry (D-Bangor)

Divided report out of the committee of
OTP (11) /ONTP (1)

- Signed by Governor Mills on April 4, 2022 and will go into effect Monday, August 8, 2022.

OCP intends to include this statutory change in routine technical rulemaking set to begin this summer.

- Allows for a variance of +/- 10% in the allowable cannabinoid potency for edible cannabis products.
 - Permits adult use edible cannabis products to pass mandatory testing even if the cannabinoid content is slightly (up to +10%) in excess of the statutorily defined limits for potency per serving (10 mg) and/or per package (100 mg).
 - Allowable variance may not be less than 0.6 mg or greater than 5 mg.

An Act To Improve Testing Requirements for Adult Use Marijuana, [P.L. 2021, ch. 612 \(LD 1985\)](#)

Sponsor – Rep. Chris Caiazzo
(D-Scarborough)

Divided report out of committee of
OTP-AM (7)/ONTP (3)

- Signed by Governor Mills on April 14, 2022 and will go into effect Monday, August 8, 2022.

OCP intends to include these statutory changes in routine technical rulemaking set to begin this summer.

- Amends the mandatory testing requirements for adult use cannabis and cannabis products to require mandatory testing only prior to transfer to an adult use store for sale to consumers.
- Exempts cannabis and cannabis products from further mandatory testing in circumstances where
 - the cannabis or cannabis product has already been subject to mandatory testing
 - OCP determines that further processing of that cannabis or cannabis product does not increase the concentration of contaminants or other factors identified in the mandatory testing requirements.

Resolve, Regarding Legislative Review of Portions of Chapter 1: Adult Use Marijuana Program Rule, a Major Substantive Rule of the Department of Administrative and Financial Services, Office of Marijuana Policy (Emergency), Resolves 2021, ch. 143 (Emergency, signed April 7, 2022) (LD 1930)

Sponsor – Rep. Chris Caiazzo (D-Scarborough)

Unanimous report of the committee of OTP

- Signed by Governor Mills on April 7, 2022 and, because it is a major substantive rule then it will become effective 30 days after final adoption. M.R.S. § 8072

OCP intends to finally adopt these rules by early June.

- Authorizes OCP to adopt major substantive revisions to the Adult Use Marijuana Program Rule, 18-691 C.M.R., ch. 1, that were submitted for legislative approval during the legislative acceptance period for the second regular session.



Dan Walker

Partner and Chair

Preti Flaherty

Cannabis Business Group

207.623.5300 dwalker@preti.com

An Act to Assist Qualifying Municipalities to Defray the Costs of Opting in to Permit Adult Use Marijuana Establishments, LD 1195

Sponsor – Rep. Tiffany Roberts
(D-South Berwick)

9-3 Vote of the Tax Committee

- Signed by Governor Mills on April 20, 2022, and will become effective August 8, 2022

- Changes name of the Adult Use Marijuana Public Health and Safety Fund to the Adult Use Marijuana Public Health and Safety and Municipal Opt-in Fund
- Expands authorized uses of that fund to include reimbursement to a qualifying municipality for qualifying expenses related to the municipality's efforts to opt in to permit the operation of some or all adult use marijuana establishments within the municipality, regardless of when opted in, as long as apply within 3 years.
- DAFS, which administers the fund, may not reimburse qualifying expenses accrued after July 1, 2027.

An Act To Permit Curbside Pickup and Limited Delivery of Adult Use Marijuana, P.L. 2021, ch. 667 (LD 1827)

Sponsor – Rep. Joe Perry (D-Bangor)

Divided report out of the committee of OTP-AM (7) /OTP-AM (4) /ONTP (1)

- Became Law without Governor Mills' signature on April 26, 2022, and will go into effect Monday, August 8, 2022.

OCP intends to begin rulemaking this summer.

- Adds residential delivery to any municipality and curbside pick up, of cannabis and cannabis products, as authorized activities for licensed adult use stores.
 - NOT businesses
 - NOT within safe zones
- Requires store staff to undergo training on consumer age verification and how to prevent deliveries to purchasers under the age of 21.

An Act To Authorize Certain Off-premises Sales of Adult Use Marijuana, [P.L. 2021, ch. 735 \(LD 1927\)](#)

Sponsor – Rep. Kathleen Dillingham
(R-Oxford)

Divided report out of committee of
OTP-AM (10) / ONTP (1)

- Became Law without Governor Mills' signature on April 26, 2022, and will go into effect is January 1, 2023

OCP intends to conduct rulemaking later in 2022.

- Allows OCP to issue temporary permits for off-premises sales of non-smokable cannabis products at specified events to adult use store licensees that have obtained municipal approval.
- Events may be indoor or outdoor
- No consumption at sale location
- Sales transacted in “tent or structure” only allowing in 21+

Medical Cannabis Program

Maine has allowed use, and limited possession, of medical marijuana since 1999. On November 3, 2009, Maine voters approved Question 5, which enacted the citizen-initiated bill, "An Act to Establish the Maine Medical Marijuana Act."

An Act To Update and Clarify the Maine Medical Use of Marijuana Act and Provide for Greater Transparency, P.L. 2021, ch 662 (LD 1928)

Sponsor – Rep. Lynne Williams (D-Bar Harbor)

Unanimous report out of the committee of OTP-AM

- Became Law without Governor Mills' signature on April 26, 2022 and, because it was an emergency measure, became effective on April 26, 2022

- Updates the pediatric certification process to remove the requirement that a pediatric patient have one of several qualifying conditions to be certified by a provider without a second opinion.
- Requires certifying providers who are certifying pediatric patients to provide the pediatric patients' parents or guardians with a method for contacting the provider outside of normal business hours.
- Defines the terms "telehealth" and "synchronous" and permits synchronous telehealth appointments for the certification of qualifying patients.
- Permits the acceptance of a digital image of a patient certification by registered caregivers and dispensaries to complete a transaction with a qualifying patient.
- Allows all registered caregivers, regardless of whether the caregiver operates a retail store, to accept remuneration for immature plants and seedlings.
- Allows assistants of caregivers and/or dispensaries to obtain a single registry identification card.
- Amends the definitions "cultivation area" and "plant canopy" and allows registered caregivers to maintain up to two separate cultivation areas.

OCP Rulemaking – Adult Use

- Revised Rule effective July 1, 2022
- Goal was to reduce administrative and regulatory burdens, implement updates from current law, and incorporated ongoing informal guidance.
- Highlights:
 - OCP revised video surveillance requirements to reduce the financial burden of these systems on the industry;
 - The licensing application process has been reconfigured to require detailed information at the active licensure phase, rather than at the conditional licensure phase;
 - Standard operating procedures (SOPs) will no longer need to be provided to OCP, except for those related to the safe and proper operation of inherently hazardous substance extraction equipment;
 - Regulations related to licensee “brands” and “logos” has been clarified;
 - Reusable packaging will be expressly permitted going forward; and
 - References to law enforcement have been removed.
 - New definitions – marijuana trim, mother plant, immature marijuana plant, and seedling
 - New provisions related to use of foyers in AU stores to verify age of prospective customers

OCP Cannabis Markets and Associated Outcomes – Survey Findings and Implications

- OCP's first population-based survey, using almost 2,000 participants across 262 zip codes, during Winter 2021.
- Partnership with Advocates for Human Potential, Inc., led by Dr. Michael Sofis, leading cannabis demand and consumption behavior researcher.
- Highlights:
 - A significant majority (64%) of cannabis accessed for consumption among past-month cannabis users in Maine is estimated to come from a regulated or otherwise legal source.
 - Accounting for the relatively short duration of Maine's adult use program, the current illicit market has diminished more than expected, given other programs' experiences.
 - The presence of an adult-use store in a consumer's ZIP code may incentivize them to access some of their cannabis from the regulated market over the illicit market.
- Survey respondents who accessed cannabis from adult use stores did not report negative health behaviors, such as cannabis use disorder or driving under the influence of cannabis – concerns which were prevalent in illicit and medical markets.

Off-session OCP Outreach

- LD 1817 – Group Tracking - Requires OCP to solicit and review feedback regarding the functionality of the existing inventory tracking system vendor and to report back to the 131st Legislature regarding those efforts. Will be convening a stakeholder group this summer.
- OCP convening informal medical industry group to make progress on outstanding issues and future department bill.
- OCP community listening tour

Q&A

Thank You!



Dan Walker
Cannabis Business Group
Preti Flaherty
207.623.5300 dwalker@preti.com



Erik Gundersen
Director
Office of Cannabis Policy
207.287.3282 erik.gundersen@maine.gov