

Adult Use Legislative Update

— Fall 2022 —

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



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Presentation Agenda

- 130th Second Regular Session Overview
 - Getting Started in Adult Use Delivery & Curbside Pickup
 - Off-Premises Licenses for Selling at Festivals & Fairs
- 131st First Regular Session Possibilities
 - The Future of Consumption Lounges

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 - The Future of Consumption Lounges

Adult Use Cannabis Program

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

This program is still relatively new and very dynamic which makes the legislative process important to watch and adapt once changes are implemented and important to advocate for your business's hopes and plans.

130th Legislature: Second Regular Session Overview

Democratic control of both Legislative Chambers and Chief Executive Office

House Membership

- 76 Democrats; 63 Republicans; 3 Independents; 9 Vacancies
- Speaker Ryan Fecteau; Majority Leader Michelle Dunphy; Assistant Majority Leader Rachel Talbot Ross; House Republican Leader Kathleen Dillingham; and Assistant Republic Leader Joel Stetkis
- 3 nonvoting seats for members representing the Penobscot Nation, Passamaquoddy Tribe and the Houlton Band of Maliseet Indians

Senate Membership

- 22 Democrats; 13 Republicans
- President Troy Jackson; Senate Democratic Majority Leader Eloise Vitell; Assistant Majority Leader Mattie Daughtry; Senate Minority Leader Jeff Timberlake; and Assistant Minority Leader Matt Pouliot

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

Adult Use Delivery & Curbside Pickup

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 went into effect Monday, August 8, 2022.

OCP began rulemaking this summer.

LD 1827 – Delivery

- “Delivery” means the transportation by a cannabis store licensee, from the licensed premises of the cannabis store to private residences, of sales orders of adult use cannabis and cannabis products to consumers 21 years of age or older who request such sales orders through a telephonic or internet-based platform.
- Adds residential delivery to any municipality regardless of whether or not opted in and curbside pick up, of cannabis and cannabis products, as authorized activities for licensed adult use stores.
 - NOT businesses
 - NOT within safe zones
- May not use 3rd party delivery services.
- Requires store staff to undergo training on consumer age verification and how to prevent deliveries to purchasers under the age of 21.

Adult Use - Delivery

- Understand where safe zones are in communities receiving delivery.
- OCP requests that store licensees work with municipal staff to:
 - Plan for the locations of such zones,
 - Document these discussions, and
 - Engage in deliveries accordingly
 - These processes and documentation are how OCP will determine compliance with safeguards associated with Safe Zones.

Adult Use Rules – Delivery

- Before retail store licensee may conduct sales by curbside pickup and/or delivery, must submit for approval to OCP a plan of record change with updated facility plan.
- Curbside updates – e.g. facility diagram, location designated for parking if pick up is outside of licensed premises, updates to security diagram, including cameras installed to film entirety of transactions.
- Delivery updates – e.g. sales must be conducted from retail store, updates to security plan, including cameras installed to film entirety of transactions.
- Security measures must be implemented.
- Train delivery staff in
 - Age ID – customers required to show photo ID
 - Verify that the identity of the individual receiving the sales order is the same as the individual who requested the sales order prior to transferring a sales order to an individual
 - Terminating sale if unable to verify age or identity or consumer is intoxicated.

Delivery

- Stores may only deliver pre-ordered cannabis and cannabis products to consumers who have contacted the store and requested delivery before the delivery driver leaves the premises of the cannabis store.
- Ensure that order is appropriately packaged and labeled and placed in exit packaging before licensee removes order from inside of store.
- Delivery may be by motor vehicle only, and contained in enclosed, locked area of vehicle
- Provide adequate refrigeration for perishable products

Delivery - Tracking

- Must use Metrc and sales delivery manifests generated by tracking system
- Manifest must be prepared for each sales order to be delivered to a consumer and must specify only one delivery destination.
- Store employee may complete delivery of multiple sales orders in one delivery trip.
- May not change or void manifest after departing from the store premises.
- Must accept returns of any cannabis/products that are refused and appropriately track, including reason for retaining; must bring returns back to store the same day

Delivery

- May not conduct sales, including sales via curbside pickup or delivery, between the hours of 10:00 p.m. and 7:00 a.m. local time the following day or any hours not permitted by local regulation
- Only delivery to Residences (not dorms, motels/hotels, campgrounds)
- Examples of a residential dwelling are:
 - Single- or multiple-family homes, condominiums, or apartments
 - Short-term rentals (such as Airbnb or VRBO residences) that are single- or multiple-family homes, condominiums, or apartments
- Residential dwellings are not:
 - School or camp dormitories
 - Inns, hotels, motels, lodging houses
 - Schools or parks
 - Parking lots, sidewalks, or streets
 - Nonresidential buildings or nonresidential portions of buildings maintained by public or private entities

Delivery – “Tobacco Products”

- May not deliver “tobacco products” – not only a product that is made from or derived from tobacco.
- Definition from OCP Guidance:
 - “Any product that contains nicotine, that is meant to be smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, and any component or accessory used in the consumption of a tobacco product.”
 - Include, but are not limited to, cigarettes (including pre-rolled cannabis cigarettes, “pre-rolls” or “joints”), cigars, hookah, pipe tobacco, chewing tobacco, snuff, snus, electronic smoking devices, filters, rolling papers, pipes and liquids used in electronic smoking devices, whether or not they contain nicotine.
- Statutory definition: “an electronic smoking device and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes and liquids used in electronic smoking devices, whether or not they contain nicotine.” 22 MRSA 1551(3)

“Tobacco products”

- **Need Retail Tobacco License** from DHHS to sell these products.
- **Requirements:**
 - Physical storefront
 - May not sell to any person younger than 21 years old.
 - May not sell to any person under 30 years old, unless seller first verifies by photo ID.
 - Notices must be posted that cannot sell to those under 21
 - Cannot be displayed or offered for sale that gives consumers direct access to the tobacco products.
 - Must be sold in direct face-to-face exchanges – not online or via phone

“Tobacco Products”

- **Tax**
 - **Similar definition as DHHS license definition**
 - **Tax on “tobacco products”:** “a tax is imposed on all tobacco products, other than those subject to tax under subsection 1 [smokeless], at the rate of 43% of the wholesale price.”
 - **Exceptions**
 - “Any product that contains adult use cannabis subject to tax under chapter 723 [AU excise tax].”
 - “Any product that contains cannabis or cannabis products subject to control under Title 22, chapter 558-C [Medical Use of Cannabis Program].”

“Tobacco Products”

- **Violations:** sales without a retail tobacco license may result in:
 - Criminal charges
 - Imprisonment
 - Fines in excess of \$1,000/violation
- Possibility for legislation next year to update the definition so it reflects that certain things, like rolling papers or vape cartridges, aren't necessarily tobacco products

Off-Premises Licenses for Selling at Festivals & Fairs

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.

Off-Premises Sales

- 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+
- Many questions:
 - What is an “event”?
 - How many licenses can you receive?

131st Legislature: First Regular Session

Election – November 8, 2022

- Incumbents Running for Re-election: House – 91; Senate – 21
- Termed out members: Senate - 6 Ds & 4 Rs; House – 16 Ds & 20 Rs
- Termed out leaders: Speaker Ryan Fecteau (D), Rep. Michelle Dunphy (D); Rep. Kathleen Dillingham (R), Rep. Joel Stetkis (R)

Legislative Timeline

- Convening Date: December 7, 2022
- Cloture: First Friday of December to Mid January (Established in Joint Rules and determined on 12/7/22)
- Committee Membership: Mid to late December
- Committee Meetings – Beginning of January with meeting frequency determined by each committee
- Session Days – two days of week in January – March; March to June will increase in frequency as needed after that time
- Statutory Adjournment – Third Wednesday of June



Cannabis Consumption Lounges

National Review

- Alaska; California; Colorado; Illinois; Massachusetts*; Michigan; New Jersey*; New Mexico; New York*; and Nevada*
 - * = passed legislation but no licenses yet



Alaska – Onsite Consumption Endorsements

Food	Beverage	Alcohol	Tobacco
Yes	Yes	No	No

- Individuals may purchase up to one gram of cannabis, or edibles containing up to 10mg THC, for use at the location.
- Workers must be able to observe the consumption area at all times and do so from a place that is smoke-free.



California – Consumption Lounges

Food	Beverage	Alcohol	Tobacco
Pending	Pending	No	No

- March 2020 – New regulations would permit for limited, pre-packaged food and non-alcoholic beverages to be sold
- No stand-alone consumption lounges; needs to be in combination with a storefront retailer
- Strong Local Control
 - Ex. West Hollywood versus San Francisco



Colorado – Marijuana Hospitality Establishments

Food	Beverage	Alcohol	Tobacco
Yes	Yes	No	No

- One gram of retail marijuana flower, ¼ of one gram of retail marijuana concentrate, or a retail cannabis product containing not more than ten milligrams of active THC
- Statute prohibits the store from permitting “rowdiness, undue noise, or other disturbances or activity offensive to the average citizen or to the residents of the neighborhood in which the licensed premises is located.”



Illinois – On-premises consumption

Food	Beverage	Alcohol	Tobacco
Yes	Yes	No	Yes

- Strong Local Control
 - A unit of local government ... may authorize or permit the on-premises consumption of cannabis at or in a dispensing organization or retail tobacco store (as defined in Section 10 of the Smoke Free Illinois Act) within its jurisdiction in a manner consistent with this Act. A dispensing organization or retail tobacco store authorized or permitted by a unit of local government to allow on-site consumption shall not be deemed a public place within the meaning of the Smoke Free Illinois Act.

Massachusetts* - Social Consumption Facilities

- June 2019 - Cannabis Control Commission drafted regulations for social consumption pilot programming 2019 but did not have legislative action that would permit social consumption facilities
- April 2022 – legislation passed that outlines process for cities and towns to vote to allow social consumption sites



Michigan – Designated Consumption Establishment

Food	Beverage	Alcohol	Tobacco
Yes	Yes	No	Yes

- No retail stores permitted; customers need to bring their own product
 - “For it to really make sense, you need it to be right next to your dispensary because it’s hard to make money in your consumption lounge because you can’t sell alcohol, and people probably aren’t coming there for a dining experience . . . it’s hard to make the argument for them as a standalone business.”



New Mexico – Cannabis Consumption Areas

Food	Beverage	Alcohol	Tobacco
Yes	Yes	No	Yes

- Started with medical only but in 2022 moved to recreational
- Cannabis Server Permits
 - (1) the effect cannabis products have on the body and behavior; (2) the effect cannabis products have on a person when used in combination with alcohol or legal or illegal drugs; (3) state laws; (4) recognizing problem cannabis product users (5) identifying false driver's licenses (6) harm reduction practices related to cannabis use.

New Jersey* - Marijuana Social Lounges

- 2021 – State Legislation for recreational marijuana passed; on-premise cannabis consumption included
- Feb 2022 Cannabis Regulatory Commission had public hearing to consider rules
- Social Equity Lens
 - “Keep an open mind when it comes to consumption lounges, as consumption lounges are a matter of health, public safety and social equity,” Gonzalez said. “Given the restrictions on where adults can consume in New Jersey, consumption lounges provide adults with a safe and private area to consume.”

New York*

- Considered one of the most detailed state regulation as opposed to leaving the majority to local control. For example, board control for whether on-site consumption license is permitted includes the following factors
 - (a) that it is a privilege, and not a right, to cultivate, process, distribute, and sell cannabis;
 - (b) the number, classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof;
 - (c) evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies;
 - (d) whether there is a demonstrated need for spaces to consume cannabis;
 - (e) effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location
 - (f) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises; and
 - (g) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community.

Nevada* – Cannabis Consumption Lounges

- September 2022 application process begins
 - Retail cannabis consumption lounges versus independent cannabis consumption lounges
- Social Equity Applicants for Applicants
- Live entertainment

Maine's History with Cannabis Consumption Lounges

- Question One (2016) – “This initiated bill ... It also provides for the licensure of **retail marijuana social clubs** where retail marijuana products may be sold to consumers for consumption on the licensed premises.”
- [LD 88 \(2017\)](#)
- LD 1650 (2017)
- Smoking Laws

Key Issues to Prepare for at the Legislature

- Store Employees
- Customers
- Local Control
- Retail versus bring your own cannabis
- Social equity for consumers and applicants
- Others?

Q&A

Thank you!



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