

City of Biddeford
City Council - Workshop
June 11, 2019 5:30 PM Council Chambers

Workshop Overview

June 11, 2019 Council Workshop Overview Memo

[6-11-2019 Workshop-Overview Memo-Bennett.pdf](#)

1. Workshop Discussion Items

- 1.1. Impacts of the increase in housing costs and potential strategies

[6-11-2019 Workshop-Housing Projections and Goals.pptx](#)

- 1.2. Recreational Marijuana: State Rule Changes

[6-11-2019 Workshop-Marijuana-Fecteau Email-April 2019.pdf](#)

[6-11-2019 Workshop-Medical Marijuana State Law.pdf](#)

[6-11-2019 Workshop-Recreational Marijuana State Law.pdf](#)

[6-11-2019 Workshop-Marijuana-Proposed Adult Use Rules.pdf](#)

- 1.3. Initial discussion for possible FY21 Senior Tax Credit Program

[6-11-2019 Workshop-Possible FY21 Senior Tax Credit Program History and Parameters-Final.pdf](#)

[6-11-2018 Workshop-Tax Abatement Program - Local Examples Summary.docx](#)

City of Biddeford, Maine



The Office of
City Manager

James A. Bennett

Email: jbennett@biddefordmaine.org

MEMORANDUM

TO:	Honorable Mayor Casavant Honorable City Council
FROM:	James A. Bennett, City Manager
DATE:	June 6, 2019
RE:	June 11 Workshop

Please find the following introductory information for your workshop next week

1. Increasing housing costs: the goal of the workshop is twofold. The first goal is to provide information about what is currently happening in the community as it relates to housing costs (both rental rates and selling prices of homes). The second goal is to provide the Council with different tools and strategies that are available to Maine communities that are facing the changes that we are. Staff is currently pursuing some of the items we will present. Others are possible options for future consideration.
2. Changing marijuana landscape: the purpose of the workshop is to update the Council on the changes (and anticipated changes) now that the state is wrapping up their work. After staff provides the update and answers any questions, we will be looking to see if there is any change in the current policy direction from a year ago. As a reminder, that current policy direction is that Biddeford is not going to 'opt in' to allow recreational marijuana activities.
3. Over the last few months, there has been some strong indication that members of the Council are generally supportive of some level of a senior tax credit program. State law does allow a community to adopt a local version of the current circuit breaker program. The purpose of this workshop is to begin the process of trying to have such a program in place for the FY21 tax bills.

Biddeford Affordable Housing Issues

- Presentation to Biddeford City Council

• *June, 2019*

- Part 1: Demographic Trends
- Part 2: Draft Comprehensive Plan Goals and Strategies
- Part3: Some Immediate Action Steps

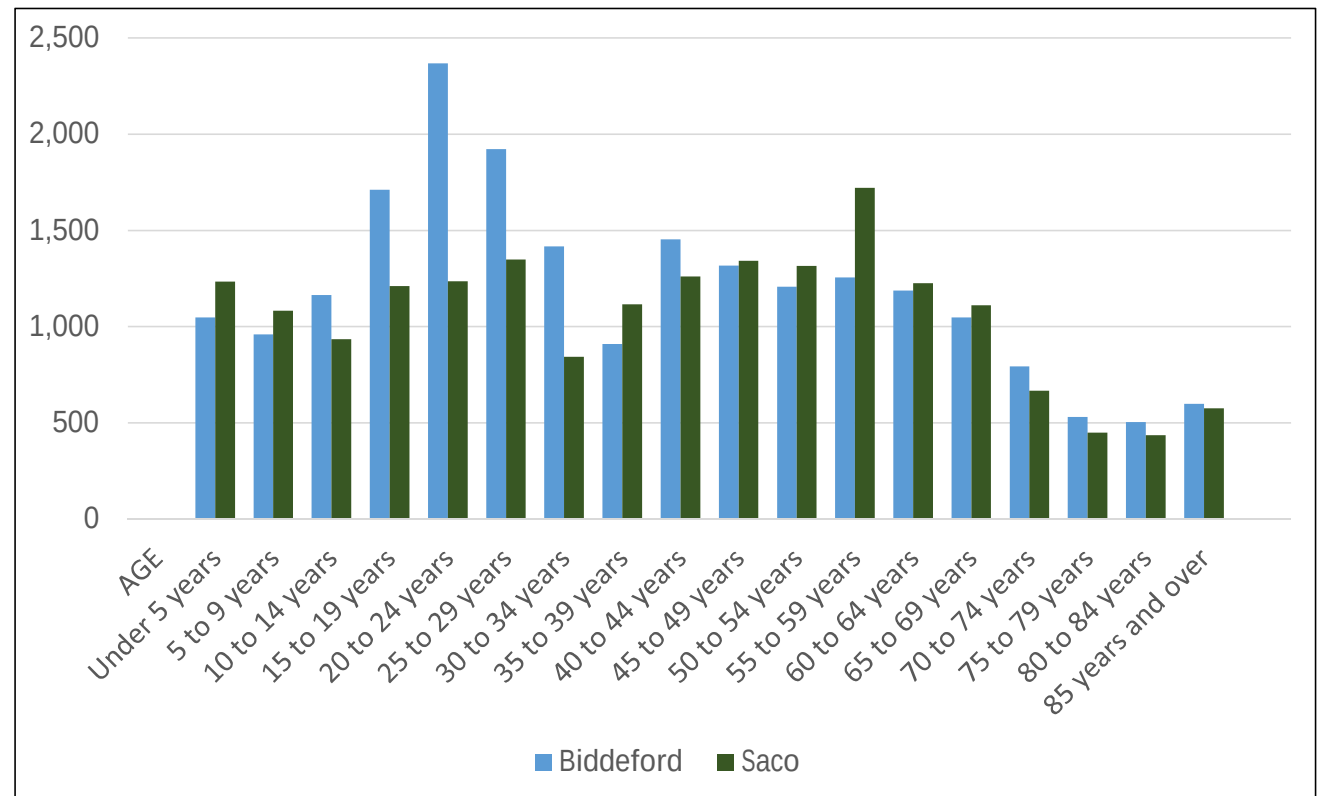
Age Distribution

Biddeford is a comparatively young community.

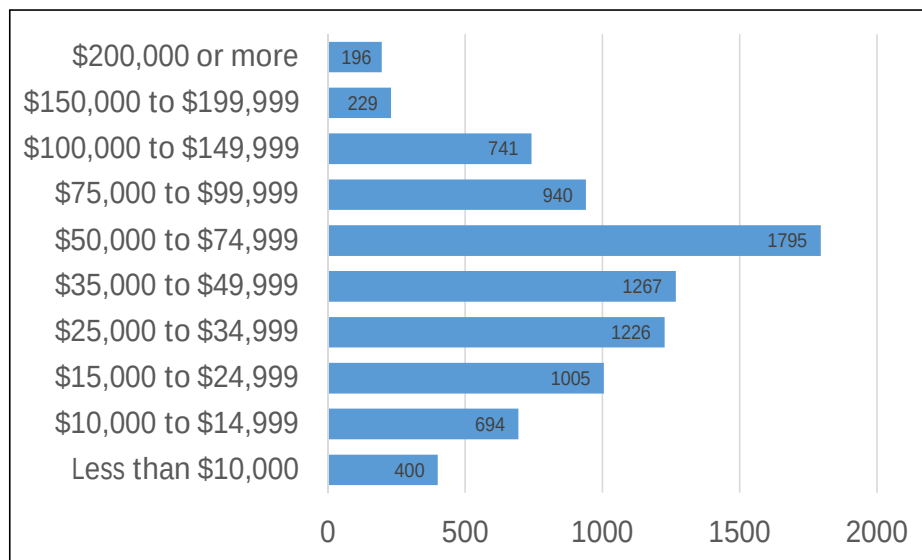
Median age here is 35.6 years.

Median Age in Saco is 42.2 years

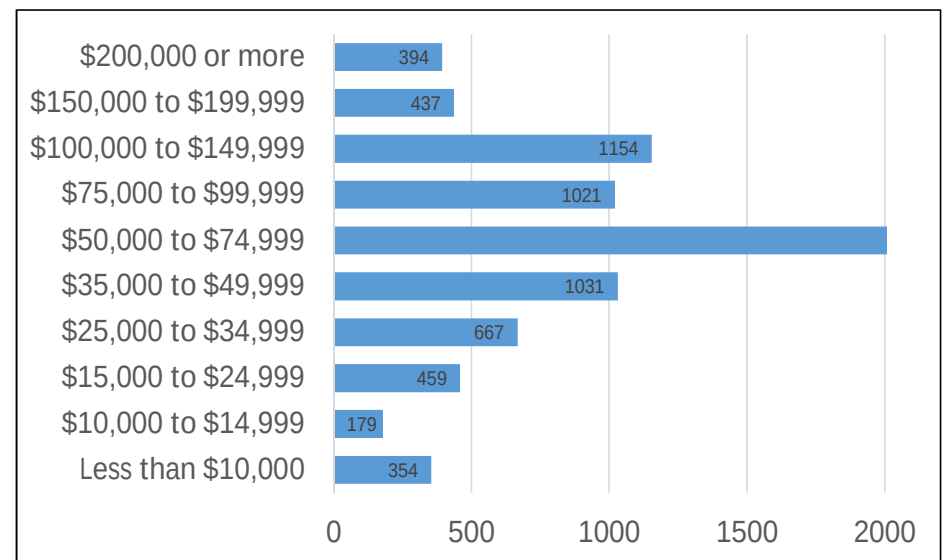
In York County, median age is 44.7 years.



Households by Income

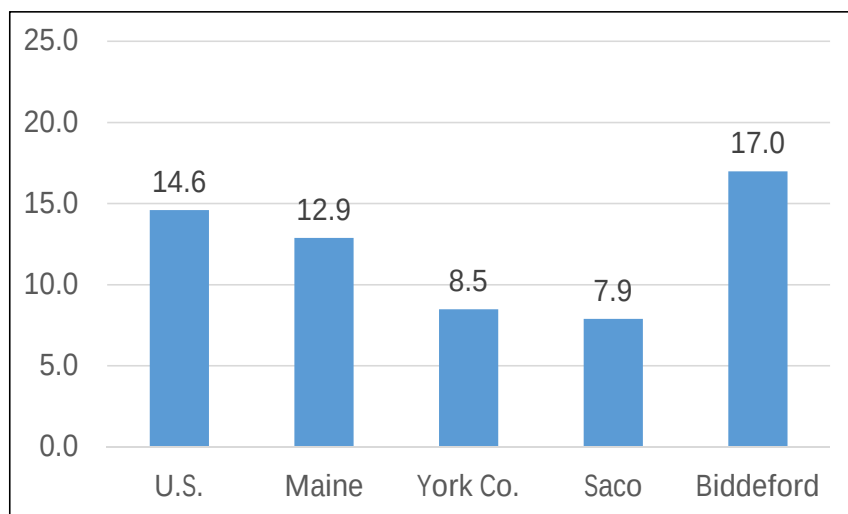


Biddeford
 Median Household Income:
 \$49,812

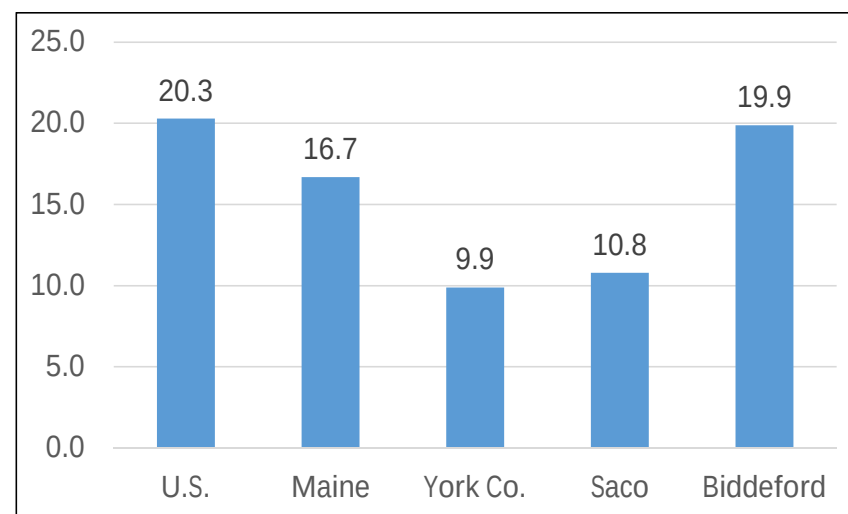


Saco
 Median household Income:
 \$63,750

Poverty – All People

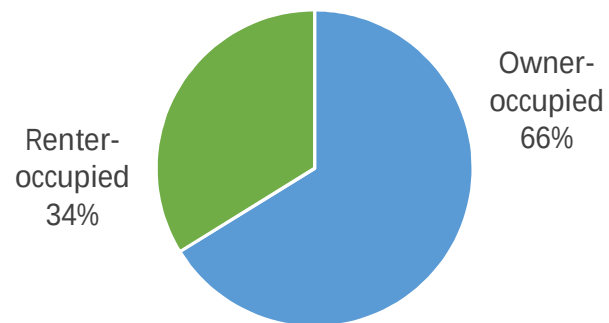


Poverty – Under 18

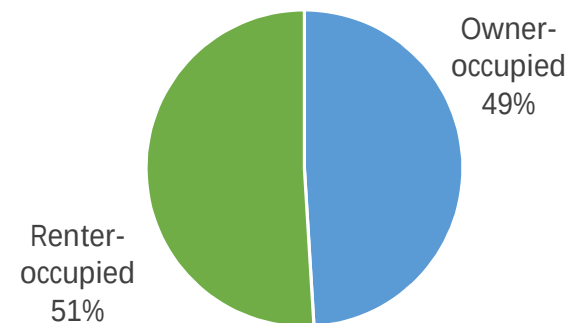


Tenure

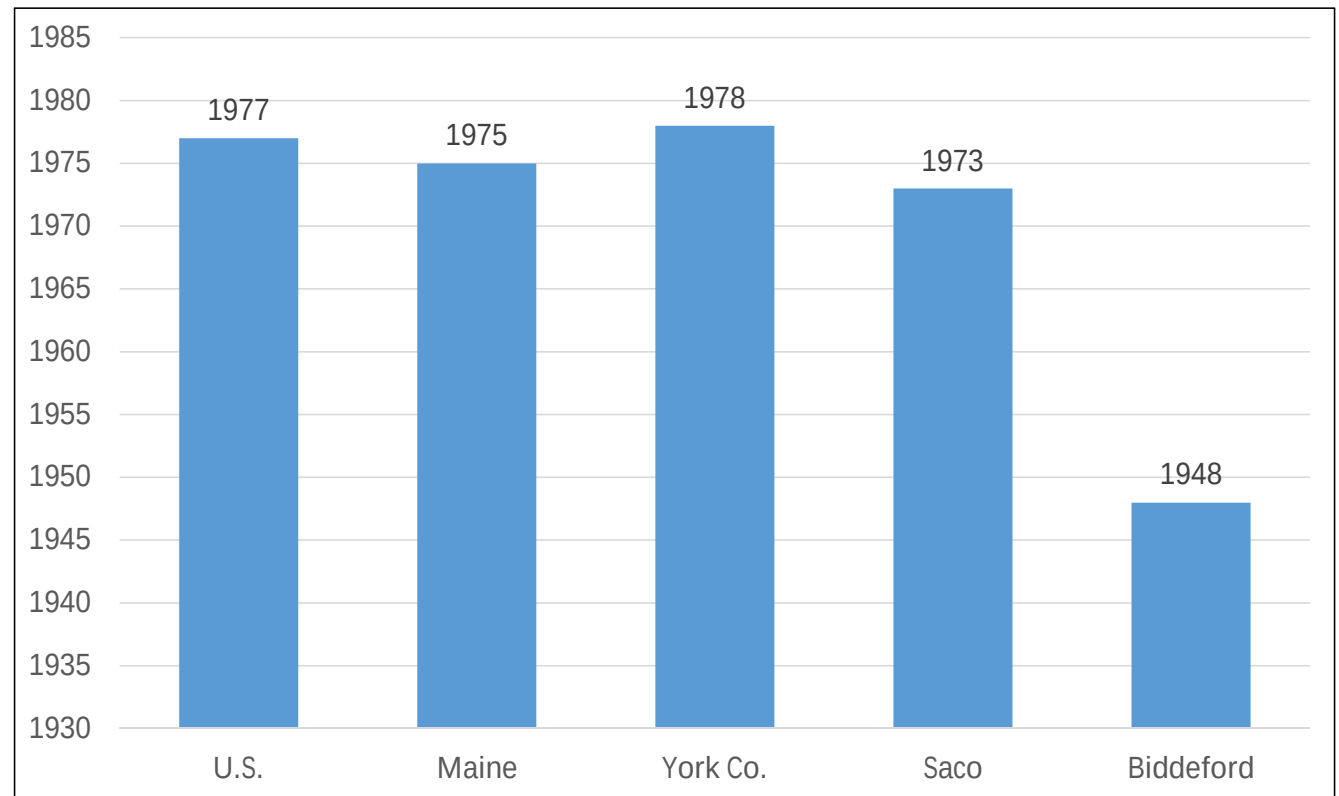
Saco



Biddeford

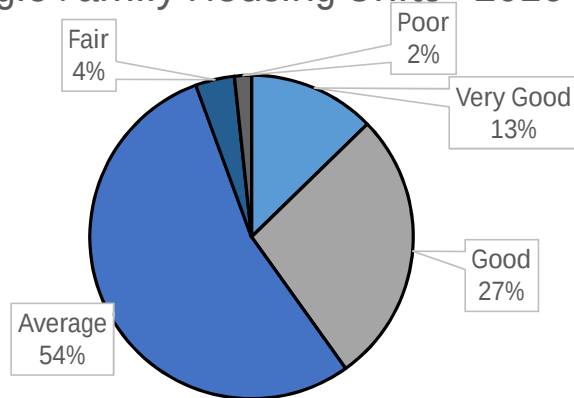


Median Year Built

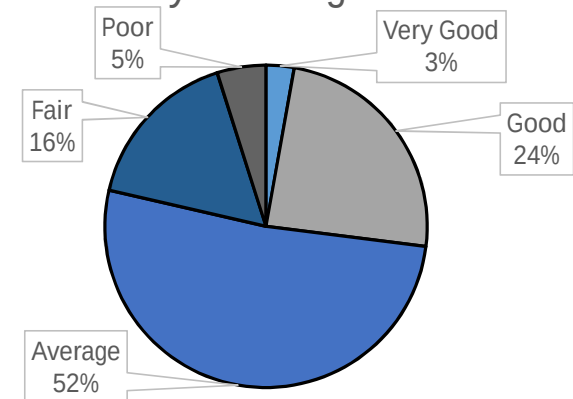


Condition

Condition of Housing
Single Family Housing Units - 2016

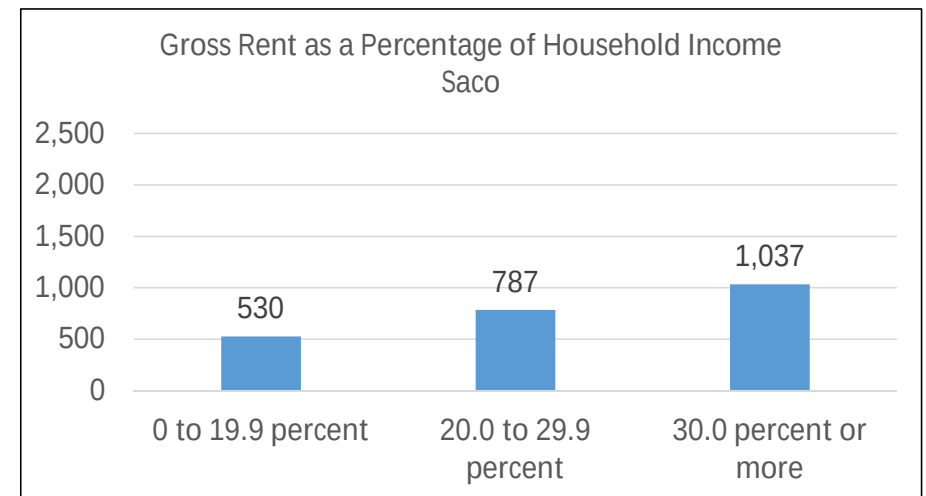
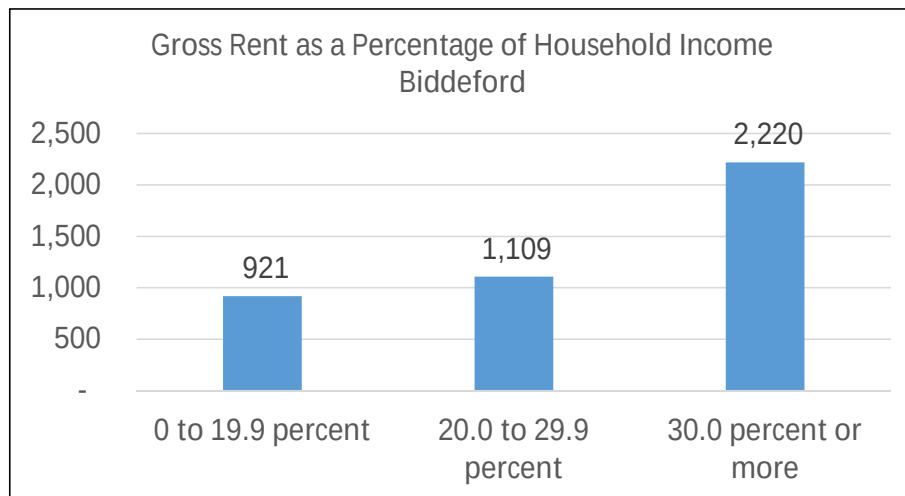


Condition of Housing
Multi-Family Housing Units - 2016

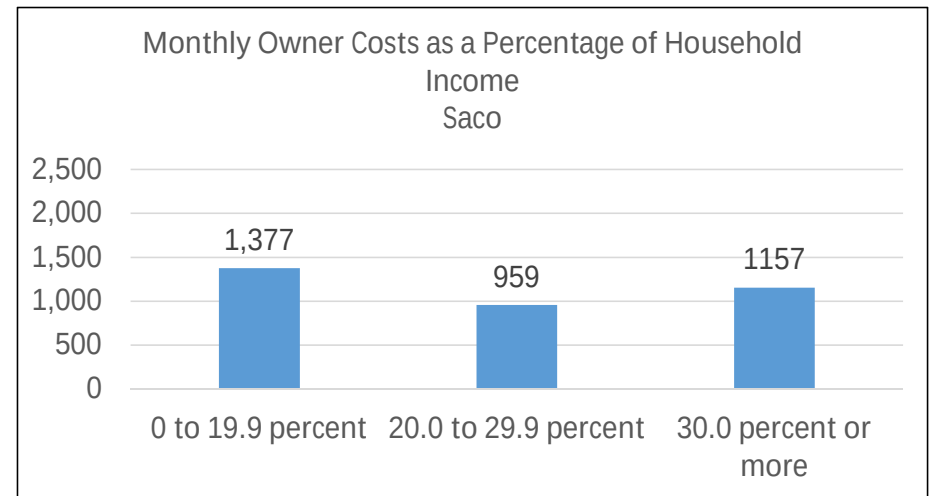
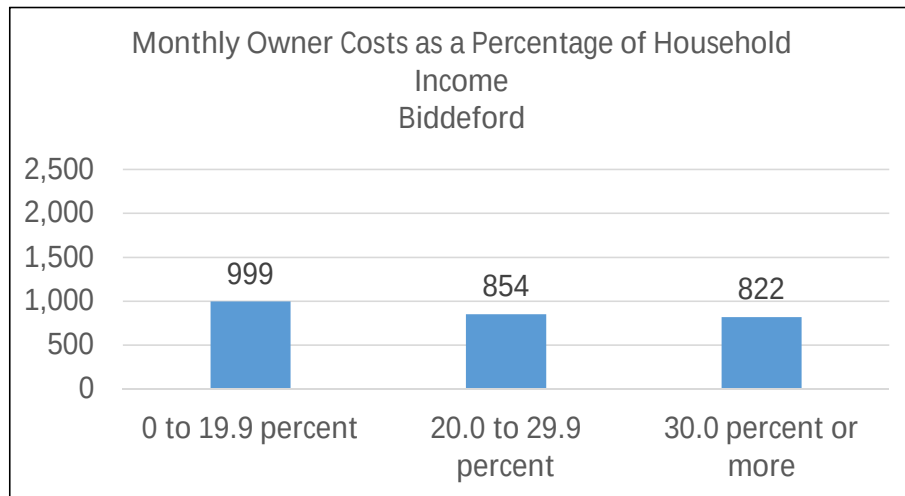


Condition varies by type: 40% of single family homes are very good or good. Just 27% of multi-families are in the same condition.

Costs as a percentage of Household Income



Costs as a Percentage of Household Income



Homeowner Affordability

	Index	Median Home Price	Median Income	Income Needed to Afford Median Home Price	Home Price Affordable to Median Income
York County	0.83	\$255,000	\$60,328	\$72,440	\$212,364
Ogunquit (least affordable)	0.41	\$580,000	\$62,829	\$152,482	\$238,984
Biddeford	0.65	\$234,900	\$46,362	\$71,752	\$151,780
Cornish (median)	0.90	\$160,750	\$40,962	\$45,634	\$144,292
Waterboro (most affordable)	1.24	\$183,000	\$64,427	\$51,954	\$226,935

Biddeford is among the lesser affordable markets for homeownership, with an index about half that of the most affordable community, Waterboro.

Rental Affordability

	Index	Average 2 Bdrm Rent w/Utilities	Renter Household Median Income	Income Needed to Afford Average 2 Bdrm Rent	2 Bdrm Rent Affordable to Median Income
York County	0.95	\$947	\$35,834	\$37,890	\$896
Biddeford (least affordable)	0.77	\$1,009	\$31,067	\$40,350	\$777
Median	1.05	\$1,090	\$45,907	\$43,585	\$1,148
North Berwick (most affordable)	1.48	\$864	\$51,135	\$34,560	\$1,278

Biddeford is the least affordable markets for renting, with an index about half that of the most affordable community, Berwick.

Housing Chapter

Draft Biddeford Comprehensive Plan

To encourage and promote affordable, decent housing opportunities for all existing and future residents of Maine and Biddeford (goal adapted from the state Growth Management Act).

Draft Comprehensive Plan Policies

Policy 1: Increase the supply of safe and adequate affordable housing for low- to moderate-income persons for the regions and Biddeford's "workforce" population.

Policy 2: Preserve and upgrade the city's housing stock serving low-to-moderate income persons.

Policy 3: Increase opportunities for homeownership for persons of all incomes.

Policy 1 Strategies

- Strategy 1a: Revise the City's Land Development Regulations (i.e., Zoning Ordinance) to incorporate inclusionary zoning principals, such as density bonuses, for the development of affordable housing.
- Strategy 1b: Re-examine growth area land use regulations in order to break down common barriers to affordable housing, including but not limited to, density restrictions, minimum lot sizes, setbacks and road widths to encourage the development of affordable/workforce housing.
- Strategy 1c: Revise Zoning Ordinance regulation to allow for and encourage new mixed-use residential and commercial development and redevelopment opportunities in Biddeford's Growth Area.
- Strategy 1d: Create affordable housing within a mixed-demographic setting, by partnering with public or private entities (such as the Biddeford Housing Authority) to explore the adaptive re-use existing properties (e.g., mills, churches, shopping centers, older housing) or develop such units through new construction.
- Strategy 1e: Promote Biddeford's Accessory Dwelling Unit (ADU) Ordinance to provide affordable housing units throughout Biddeford.
- Strategy 1f: Create incentives for affordable, mixed income residential projects through the use of Residential Tax Increment Financing and where appropriate, link those incentives to density bonuses.
- Strategy 1g: Provide for an incentive program for low to moderate income homebuyers to purchase and live in an existing multiunit building (2 to 4 units), while preserving at least half of those units for low to moderate income households.
- Strategy h: Prioritize the disposition of tax-acquired and city-owned property for housing and affordable housing opportunities before other options such as parking lots, parks, etc.

Policy 2 Strategies

- Strategy 2a: Create incentives and partnerships that will help finance the rehabilitation of the City's urban housing stock.
- Strategy 2b: Continue the Property Maintenance program through the Code Enforcement Office to conduct routine, systematic inspections of multi-family rental housing sites to ensure life-safety standards are met and to prevent blighting influences on neighborhoods.
- Strategy 2c: Encourage participation by landlords in the Biddeford Landlords Associating, creating partnerships that will identify additional resources for housing stock improvements and affordable housing preservation.

Policy 3 Strategies

- Strategy 3a: Consider a partnership with other public/private organizations to pool resources to help finance affordable home ownership (e.g., down payment assistance, loan assistance, mortgage interest rate write-downs, and other financing mechanisms).
- Strategy 3b: Maintain and promote Biddeford's Accessory Dwelling Unit (ADU) Ordinance to provide supplemental income to property owners.
- Strategy 3c: Maintain Biddeford's current Mobile Home Park overlay districts to allow for mobile home/manufactured housing parks in the City pursuant to 30-A M.R.S.A. §4358(3)(M) and 30-A M.R.S.A. §4358(2).
- Strategy 3d: Encourage higher density neighborhoods in the immediate downtown and surrounding neighborhoods while also creating condominium based homeownership opportunities.
- Strategy 3e: Amend the Zoning Ordinance to allow for back-lot development with driveways rather than requiring 1-Lot Private Roads.
- Strategy 3f: Amend the Zoning Ordinance to allow for shared driveways rather than requiring 2-Lot Private Roads.
- Strategy 3g: Review and amend (if appropriate) the Rural-Farm zoning to provide density bonuses in cluster subdivisions that achieve certain natural resource preservation goals while creating new ownership opportunities.
- Strategy 3h: Maintain and consider expanding the MSRD-2 density incentive program when existing living space is proposed for redevelopment/renovation and when that new housing meets certain minimum housing quality standards.

Maine Housing Session Action Plan

- Maintain and increase the supply of two and three bedroom family units, both rental and homeowner;
- Identify land use strategies to insure available land for affordable housing development and coordinate that location with transit options;
- Increase the focus on existing 2-4 unit structures, working to preserve those units and where possible, create opportunities for homeownership;
- Work to break the generational cycle in homelessness;
- In creating options for housing, coordinate that focus with the needs of:
 - The workforce;
 - Biddeford area seniors;
 - New Americans; and,
 - Intergenerational housing.
- Address health issues related to lead based paint and asbestos in the City's older housing stock.

Fecteau, Roby

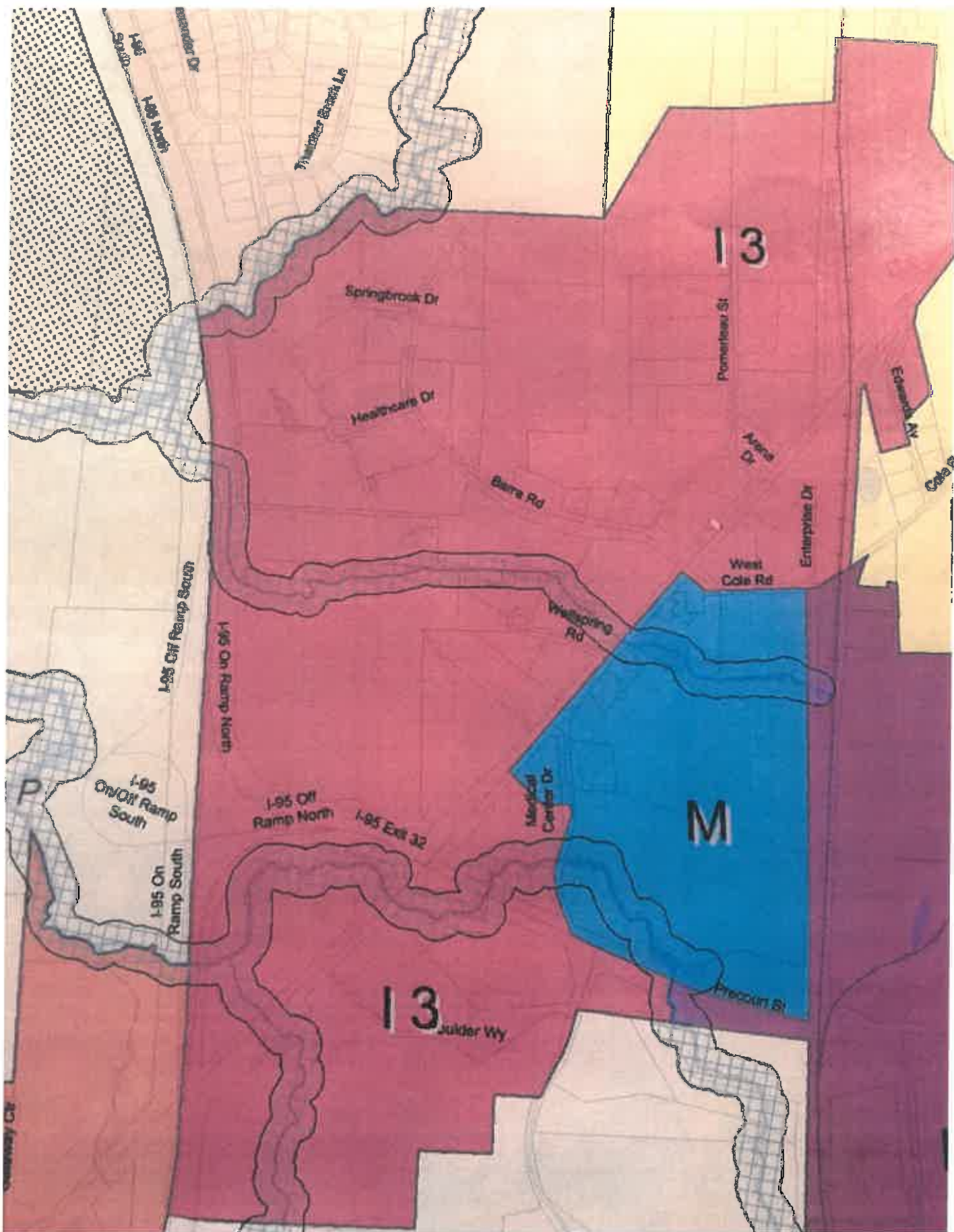
From: Fecteau, Roby
Sent: Thursday, April 18, 2019 12:38 PM
To: Bennett, James
Cc: Phinney, Brian
Subject: Moratorium
Attachments: SCode Enfor19041811280.pdf

In reviewing the attached moratorium language the expiration will be May 5th. This email is a brief explanation of how the new laws for medical and adult-use Marijuana laws are structured.

Both laws have language built into them that clearly state the local municipalities must "Opt in". If a municipality opt's in, they must create language in their ordinance that would regulate the manufacturing, land use, and sale of both medical and adult use.

If a municipality chooses not to opt in, then its prohibited in that municipality. Municipalities don't have to "Opt in" for both. They have the option for medical or adult use.

When the current moratorium expires, Biddeford already allows medical marijuana activities in three zones. I-3 zone allows Medical marijuana dispensaries as a Conditional Use permit through the planning board: **Definition: A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial land use. Below is the zoning map for I-3**



In the I-1 and I-2 zones, Medical Marijuana growing facilities are a conditional use permit that is required from the Planning Board: **Definition: A facility used for cultivating, processing, and/or storing medical marijuana by one or more medical marijuana caregiver(s) at a location which is not the medical marijuana caregiver's primary year-round residence or his or her patient's primary year-round residence. This shall be considered a commercial land use.** Below is the map for the zones



In Closing: If Biddeford does not “opt in”, the only land use activity for marijuana would be limited to “Medical Marijuana” under the current ordinance and zoning districts. Adult use would be prohibited without an ordinance that would regulate it.

The current ordinance or state law does not prohibit people from growing for personal use.

Please let me know if you have any questions.

Roby Fecteau

Director of Code Enforcement & Emergency Management

City of Biddeford

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Title 22: HEALTH AND WELFARE
Chapter 558-C: MAINE MEDICAL USE OF MARIJUANA ACT

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Maine Revised Statutes
Title 22: HEALTH AND WELFARE
Chapter 558-C: MAINE MEDICAL USE OF MARIJUANA ACT

§2421. SHORT TITLE

This chapter may be known and cited as "the Maine Medical Use of Marijuana Act." [2009, c. 631, §7 (AMD); 2009, c. 631, §51 (AFF).]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §7 (AMD). 2009, c. 631, §51 (AFF).

§2422. DEFINITIONS

(CONFLICT)

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2009, c. 1, §5 (NEW).]

1. Cardholder. "Cardholder" means a person who has been issued and possesses a valid registry identification card.

[2017, c. 452, §3 (AMD) .]

1-A. Collective. "Collective" means an association, cooperative, affiliation or group of caregivers who physically assist each other in the act of cultivation, processing or distribution of marijuana for medical use for the benefit of the members of the collective.

[2017, c. 452, §3 (AMD) .]

1-B. Certified nurse practitioner. "Certified nurse practitioner" means a registered professional nurse licensed under Title 32, chapter 31 who has received postgraduate education designed to prepare the nurse for advanced practice registered nursing in a clinical specialty in nursing that has a defined scope of practice and who has been certified in the clinical specialty by a national certifying organization acceptable to the State Board of Nursing.

[2013, c. 516, §1 (NEW) .]

1-C. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

[2017, c. 409, Pt. E, §2 (NEW) .]

1-D. Assistant. "Assistant" means a person paid to perform a service for a caregiver, dispensary, manufacturing facility or marijuana testing facility in accordance with this chapter, whether as an employee or independent contractor.

[2017, c. 452, §3 (NEW) .]

1-E. Child-resistant. "Child-resistant" means, with respect to packaging or a container:

A. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and [2017, c. 452, §3 (NEW) .]

B. With respect to any product intended for more than a single use or that contains multiple servings, resealable. [2017, c. 452, §3 (NEW) .]

[2017, c. 452, §3 (NEW) .]

2. Debilitating medical condition.

[2009, c. 631, §9 (AMD); 2009, c. 631, §51 (AFF); 2011, c. 407, Pt. B, §2 (AMD); 2017, c. 452, §3 (RP) .]

2-A. Department. "Department" means the Department of Administrative and Financial Services.

[2017, c. 409, Pt. E, §2 (NEW) .]

3. Cultivation area. "Cultivation area" means an indoor or outdoor area used for cultivation in accordance with this chapter that is enclosed and equipped with locks or other security devices that permit access only by a person authorized to have access to the area under this chapter.

[2017, c. 452, §3 (AMD) .]

3-A. Extended inventory supply interruption.

[2017, c. 452, §3 (RP) .]

3-B. Edible marijuana product. "Edible marijuana product" means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing harvested marijuana.

[2017, c. 452, §3 (NEW) .]

3-C. Harvested marijuana. "Harvested marijuana" means the plant material harvested from a mature marijuana plant, except the stalks, leaves and roots of the plant that are not used for a qualifying patient's medical use. "Harvested marijuana" includes marijuana concentrate and marijuana products.

[2017, c. 452, §3 (NEW) .]

4. Disqualifying drug offense. "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more. It does not include:

A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years earlier; or [2009, c. 1, §5 (NEW) .]

B. An offense that consisted of conduct that would have been permitted under this chapter. [2009, c. 1, §5 (NEW) .]

[2009, c. 631, §10 (AMD); 2009, c. 631, §51 (AFF) .]

4-A. Incidental amount of marijuana.

[2017, c. 452, §3 (RP) .]

4-B. Mature marijuana plant. "Mature marijuana plant" means a flowering female marijuana plant.

[2017, c. 452, §3 (AMD) .]

4-C. Medical provider. "Medical provider" means a physician, a certified nurse practitioner or a physician assistant.

[2017, c. 452, §3 (AMD) .]

4-D. (CONFLICT: Text as enacted by PL 2017, c. 447, §1) Inherently hazardous substance.

"Inherently hazardous substance" means a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.

[2017, c. 447, §1 (NEW) .]

4-D. (CONFLICT: Text as enacted by PL 2017, c. 452, §3) Immature marijuana plant. "Immature marijuana plant" means a nonflowering marijuana plant that measures more than 24 inches from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches.

[2017, c. 452, §3 (NEW) .]

4-E. (CONFLICT: Text as enacted by PL 2017, c. 447, §1) Manufacture or manufacturing.

"Manufacture" or "manufacturing" means the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis.

[2017, c. 447, §1 (NEW) .]

4-E. (CONFLICT: Text as enacted by PL 2017, c. 452, §3) Inherently hazardous substance.

"Inherently hazardous substance" means a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.

[2017, c. 452, §3 (NEW) .]

4-F. (CONFLICT: Text as enacted by PL 2017, c. 447, §1) Manufacturing facility. "Manufacturing facility" means a registered tier 1 or tier 2 manufacturing facility or a person or entity authorized to engage in marijuana extraction under section 2423-F.

[2017, c. 447, §1 (NEW) .]

4-F. (CONFLICT: Text as enacted by PL 2017, c. 452, §3) Long-term care facility. "Long-term care facility" means a hospice provider facility licensed under chapter 1681; a nursing facility licensed under chapter 405; an assisted living facility licensed under chapter 1663 or 1664; or a facility or program licensed under chapter 1663 that provides care for a qualifying patient in accordance with section 2423-A, subsection 1, paragraph F-1, subparagraph (2).

[2017, c. 452, §3 (NEW) .]

4-G. (CONFLICT: Text as enacted by PL 2017, c. 447, §1) Marijuana concentrate. "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.

[2017, c. 447, §1 (NEW) .]

4-G. (CONFLICT: Text as enacted by PL 2017, c. 452, §3) Manufacture or manufacturing. "Manufacture" or "manufacturing" means the production, blending, infusing, compounding or other preparation of marijuana concentrate and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis.

[2017, c. 452, §3 (NEW) .]

4-H. (CONFLICT: Text as enacted by PL 2017, c. 447, §1) Marijuana extraction. "Marijuana extraction" means the process of extracting marijuana concentrate from marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

[2017, c. 447, §1 (NEW) .]

4-H. (CONFLICT: Text as enacted by PL 2017, c. 452, §3) Manufacturing facility. "Manufacturing facility" means a registered tier 1 or tier 2 manufacturing facility or a person authorized to engage in marijuana extraction under section 2423-F.

[2017, c. 452, §3 (NEW) .]

4-I. (CONFLICT: Text as enacted by PL 2017, c. 447, §1) Marijuana product. "Marijuana product" means a product composed of marijuana or marijuana concentrate and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.

[2017, c. 447, §1 (NEW) .]

4-I. (CONFLICT: Text as enacted by PL 2017, c. 452, §3) Marijuana concentrate. "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish.

[2017, c. 452, §3 (NEW) .]

4-J. Marijuana extraction. "Marijuana extraction" means the process of extracting marijuana concentrate from harvested marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

[2017, c. 452, §3 (NEW) .]

4-K. Marijuana plant. "Marijuana plant" means a plant of the genus Cannabis, including, but not limited to, Cannabis sativa, Cannabis indica and Cannabis ruderalis or their hybrids and the seeds of those plants.

[2017, c. 452, §3 (NEW) .]

4-L. Marijuana product. "Marijuana product" means a product composed of harvested marijuana and other ingredients that is intended for medical use. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.

[2017, c. 452, §3 (NEW) .]

4-M. Nonflowering marijuana plant. "Nonflowering marijuana plant" means a marijuana plant that is in a stage of growth in which the plant's pistils are not showing or the pistils protrude in pairs from seed bracts that may be located on multiple nodes of the plant.

[2017, c. 452, §3 (NEW) .]

5. Medical use. "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's medical diagnosis or symptoms for which a medical provider has provided the qualifying patient a written certification under this chapter.

[2017, c. 452, §3 (AMD) .]

5-A. Member of the family. "Member of the family" means a person who is a resident of the State and who is a spouse, domestic partner, child, sibling, aunt, uncle, niece, nephew, parent, stepparent, grandparent or grandchild of another person. "Member of the family" includes a person who is a resident of the State and who is living with a person as a spouse and a natural parent of a child of a person.

[2017, c. 452, §3 (AMD) .]

5-B. Members of the same household. "Members of the same household" means 2 or more people who are residents of the State and who reside in a shared dwelling unit.

[2017, c. 452, §3 (AMD) .]

5-C. Marijuana testing facility. "Marijuana testing facility" means a public or private laboratory that:

A. Is authorized in accordance with section 2423-A, subsection 10 to analyze contaminants in and the potency and cannabinoid profile of samples; and [2017, c. 447, §2 (AMD); 2017, c. 452, §3 (AMD) .]

B. Is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department. [2015, c. 475, §3 (NEW) .]

[2017, c. 447, §2 (AMD); 2017, c. 452, §3 (AMD) .]

6. Registered dispensary. "Registered dispensary" or "dispensary" means an entity registered under section 2425-A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients.

[2017, c. 452, §3 (AMD) .]

6-A. Onsite assessment.

[2011, c. 407, Pt. B, §8 (RP) .]

6-B. Officer or director. "Officer or director" means, when used with respect to any nonprofit, for-profit or other organization governed by this chapter, a director, manager, shareholder, board member, partner or other person holding a management position or ownership interest in the organization.

[2017, c. 452, §3 (NEW) .]

7. Physician. "Physician" means a person licensed as an osteopathic physician by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician or surgeon by the Board of Licensure in Medicine pursuant to Title 32, chapter 48 who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.

[2009, c. 631, §14 (AMD); 2009, c. 631, §51 (AFF) .]

7-A. Physician assistant. "Physician assistant" means a person licensed as a physician assistant by the Board of Osteopathic Licensure pursuant to Title 32, chapter 36 or a person licensed as a physician assistant by the Board of Licensure in Medicine pursuant to Title 32, chapter 48 who is in good standing and who holds a valid federal Drug Enforcement Administration license to prescribe drugs.

[2017, c. 452, §3 (NEW) .]

8. Primary caregiver.

[2009, c. 631, §51 (AFF); 2009, c. 631, §15 (RP) .]

8-A. Caregiver. "Caregiver" means a person or an assistant of that person that provides care for a qualifying patient in accordance with section 2423-A, subsection 2.

[2017, c. 452, §3 (AMD) .]

9. Qualifying patient. "Qualifying patient" or "patient" means a person who has been a resident of the State for at least 30 days and who possesses a valid written certification regarding medical use of marijuana in accordance with section 2423-B.

[2017, c. 452, §3 (AMD) .]

9-A. Registration certificate. "Registration certificate" means a document issued by the department that identifies an entity as an entity that has registered with the department in accordance with this chapter.

[2017, c. 452, §3 (NEW) .]

9-B. Remuneration. "Remuneration" means a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which marijuana is transferred or furnished by that person to another person.

[2017, c. 452, §3 (NEW) .]

10. Registered nonprofit dispensary.

[2017, c. 452, §3 (RP) .]

11. Registered caregiver. "Registered caregiver" means a caregiver who is registered by the department pursuant to section 2425-A.

[2017, c. 452, §3 (AMD) .]

12. Registered patient. "Registered patient" means a qualifying patient who is registered by the department pursuant to section 2425-A.

[2017, c. 452, §3 (AMD) .]

13. Registry identification card. "Registry identification card" means a document issued by the department that identifies a person as a person who has registered with the department in accordance with this chapter.

[2017, c. 452, §3 (AMD) .]

13-A. Tamper-resistant paper. "Tamper-resistant paper" means paper that possesses an industry-recognized feature that prevents copying of the paper, erasure or modification of information on the paper and the use of counterfeit documentation.

[2011, c. 407, Pt. B, §13 (NEW) .]

13-B. Resident of the State. "Resident of the State" means a person who is domiciled in the State.

[2017, c. 452, §3 (NEW) .]

13-C. Tamper-evident. "Tamper-evident" means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.

[2017, c. 452, §3 (NEW) .]

14. Prepared marijuana.

[2017, c. 452, §3 (RP) .]

14-A. (CONFLICT: Text as amended by PL 2017, c. 447, §3) Sample. "Sample" means any marijuana or product containing marijuana regulated under this chapter that is provided for testing or research purposes to a marijuana testing facility by a qualifying patient, designated primary caregiver, dispensary or manufacturing facility.

[2017, c. 447, §3 (AMD) .]

14-A. (CONFLICT: Text as amended by PL 2017, c. 452, §3) Sample. "Sample" means a marijuana plant or harvested marijuana that is provided for testing or research purposes to a marijuana testing facility.

[2017, c. 452, §3 (AMD) .]

14-B. Seedling. "Seedling" means a nonflowering marijuana plant or rooted cutting that measures 24 inches or less from the base of the main plant stalk to the most distant point of the plant's leaf stems or branches.

[2017, c. 452, §3 (NEW) .]

15. Visiting qualifying patient. "Visiting qualifying patient" means a patient who is authorized for the medical use of marijuana in this State in accordance with section 2423-D and who is not a resident of the State or who has been a resident of the State less than 30 days.

[2017, c. 452, §3 (AMD) .]

16. Written certification. "Written certification" means a document on tamper-resistant paper signed by a medical provider that is valid for the term provided by the qualifying patient's medical provider, except that the term of a written certification may not exceed one year, and that states that in the medical provider's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's medical diagnosis or symptoms associated with the medical diagnosis.

[2017, c. 452, §3 (AMD) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§8-19 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §§1-15 (AMD). 2013, c. 361, §1 (AMD). 2013, c. 396, §1 (AMD). 2013, c. 503, §1 (AMD). 2013, c. 516, §§1-5 (AMD). 2015, c. 475, §§1-5 (AMD). 2017, c. 409, Pt. E, §2 (AMD). 2017, c. 447, §§1-3 (AMD). 2017, c. 452, §3 (AMD).

§2422-A. ADMINISTRATION AND ENFORCEMENT; RULEMAKING

1. Administration and enforcement. The department shall administer and enforce this chapter and the rules adopted pursuant to this chapter, except that the administration and enforcement by the department of this chapter and the rules adopted pursuant to this chapter may not be assigned to any bureau or division within the department responsible for the administration and enforcement of the laws governing the manufacture, sale and distribution of liquor.

[2017, c. 409, Pt. E, §3 (NEW) .]

2. Rulemaking. The department, after consultation with the Department of Health and Human Services, may adopt rules as necessary to administer and enforce this chapter or amend rules previously adopted pursuant to this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 409, Pt. E, §3 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. E, §3 (NEW) .

§2423. PROTECTIONS FOR THE MEDICAL USE OF MARIJUANA (REPEALED)

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §51 (AFF). 2009, c. 631, §20 (RP) .

§2423-A. AUTHORIZED CONDUCT FOR THE MEDICAL USE OF MARIJUANA (CONFLICT)

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Qualifying patient. Except as provided in section 2426, a qualifying patient may:

A. Possess up to 8 pounds of harvested marijuana; [2017, c. 452, §4 (AMD) .]

B. Cultivate, or designate a caregiver operating under subsection 3, paragraph C to cultivate under paragraph F-1, subparagraph (1), up to a total of 6 mature marijuana plants, 12 immature marijuana plants and unlimited seedlings for that qualifying patient. The total number of mature marijuana plants

per qualifying patient, whether cultivated by the patient or by a caregiver operating under subsection 3, paragraph C, may not exceed 6. The total number of immature marijuana plants per qualifying patient, whether cultivated by the patient or by a caregiver operating under subsection 3, paragraph C, may not exceed 12. Two or more qualifying patients who are members of the same household and cultivating their own marijuana plants may share one cultivation area; [2017, c. 452, §4 (AMD).]

C. Possess marijuana paraphernalia; [2009, c. 631, §21 (NEW); 2009, c. 631, §51 (AFF).]

D. Furnish or offer to furnish to another qualifying patient for that patient's medical use of marijuana up to 2 1/2 ounces of harvested marijuana for no remuneration; [2017, c. 452, §4 (AMD).]

E. [2017, c. 452, §4 (RP).]

F. [2017, c. 452, §4 (RP).]

F-1. Obtain or receive harvested marijuana for the patient's medical use without designating a caregiver or a dispensary, except that a qualifying patient or the parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age or who is enrolled in a preschool or primary or secondary school must designate, as applicable:

(1) A caregiver operating under subsection 3, paragraph C in order to have that caregiver cultivate marijuana plants for the patient;

(2) A long-term care facility in order to have that facility assist with the qualifying patient's medical use of harvested marijuana. A long-term care facility that is designated by a patient may not be designated to cultivate marijuana plants for the patient;

(3) A person in order to have that person obtain harvested marijuana on behalf of the qualifying patient or transport the harvested marijuana to the qualifying patient. The person must possess the person's government-issued photographic identification that contains the person's address, the qualifying patient's written certification and the qualifying patient's designation in order to engage in this conduct; and

(4) A caregiver in order to have that caregiver possess and administer harvested marijuana for the patient's medical use pursuant to section 2426, subsection 1-A if the patient is enrolled in a preschool or primary or secondary school.

A designation pursuant to this paragraph must be in a standardized written document, developed by the department, that is signed and dated by the qualifying patient or the parent, legal guardian or person having legal custody of the qualifying patient and expires on a date not to exceed the expiration date of the qualifying patient's written certification. The document must include the signed acknowledgment of the person or facility that the person or facility may be contacted to confirm the designation of the person or facility to engage in the conduct authorized by the designation. The document must also include, if applicable, the total number of mature marijuana plants and immature marijuana plants the caregiver is cultivating for the patient; [2017, c. 452, §4 (NEW).]

F-2. Choose a caregiver based solely on the patient's preference, except that a parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age must serve as one caregiver for the patient; [2017, c. 452, §4 (NEW).]

G. Be in the presence or vicinity of the medical use of marijuana and assist any qualifying patient with using or administering marijuana; [2015, c. 475, §6 (AMD).]

H. (CONFLICT: Text as amended by PL 2017, c. 452, §4) Accept marijuana plants or harvested marijuana from a qualifying patient, caregiver or registered dispensary if no remuneration is provided to the patient, caregiver or dispensary; [2017, c. 452, §4 (AMD).]

H. (CONFLICT: Text as amended by PL 2017, c. 447, §4) Accept excess prepared marijuana from a primary caregiver in accordance with subsection 2, paragraph H if nothing of value is provided to the primary caregiver; [2017, c. 447, §4 (AMD).]

I. Provide samples to a marijuana testing facility for testing and research purposes; [2017, c. 447, §5 (AMD); 2017, c. 452, §4 (AMD).]

J. (CONFLICT: Text as enacted by PL 2017, c. 447, §6) Manufacture marijuana products and marijuana concentrate for medical use, except that a qualifying patient may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; and [2017, c. 447, §6 (NEW).]

J. (CONFLICT: Text as enacted by PL 2017, c. 452, §4) Manufacture marijuana products and marijuana concentrate for medical use, except that a qualifying patient may not manufacture food, as defined in section 2152, subsection 4, unless the qualifying patient is licensed pursuant to section 2167 and except that a qualifying patient may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; [2017, c. 452, §4 (NEW).]

K. (CONFLICT: Text as enacted by PL 2017, c. 447, §6) Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the qualifying patient provided to the manufacturing facility. [2017, c. 447, §6 (NEW).]

K. (CONFLICT: Text as enacted by PL 2017, c. 452, §4) Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the qualifying patient provided to the manufacturing facility; [2017, c. 452, §4 (NEW).]

L. Transport marijuana plants or harvested marijuana for a qualifying patient's medical use of marijuana in accordance with this chapter; and [2017, c. 452, §4 (NEW).]

M. Use harvested marijuana in any form, except as provided in subsection 4-A and except that qualifying patients who have not attained 18 years of age may not engage in smoking harvested marijuana. For the purposes of this paragraph, "smoking" has the same meaning as in section 1541, subsection 6, except that "smoking" does not include the use of a nebulizer. [2017, c. 452, §4 (NEW).]

[2013, c. 396, §§2-4 (AMD); 2015, c. 475, §§6-8 (AMD); 2017, c. 447, §§4-6 (AMD); 2017, c. 452, §4 (AMD) .]

2. Caregiver. Except as provided in section 2426, a caregiver, for the purpose of assisting a qualifying patient with the patient's medical use of marijuana, may engage in the following authorized conduct if the caregiver is a resident of the State, is 21 years of age or older and has not been convicted of a disqualifying drug offense:

A. Possess all harvested marijuana produced by the caregiver's cultivation of marijuana plants under paragraph B; [2017, c. 452, §4 (AMD).]

A-1. Transfer up to 2 1/2 ounces of harvested marijuana to a qualifying patient in one transaction, except that a caregiver may not dispense more than 2 1/2 ounces of harvested marijuana to a visiting qualifying patient during a 15-day period; [2017, c. 452, §4 (NEW).]

B. Cultivate up to 30 mature marijuana plants, 60 immature marijuana plants and unlimited seedlings; [2017, c. 452, §4 (AMD).]

C. [2017, c. 452, §4 (RP).]

C-1. Assist a qualifying patient with the patient's medical use of marijuana; [2017, c. 452, §4 (NEW).]

D. [2017, c. 452, §4 (RP).]

E. Receive reasonable monetary compensation for costs associated with cultivating marijuana plants or assisting a qualifying patient with that patient's medical use of marijuana; [2017, c. 452, §4 (AMD).]

F. Be in the presence or vicinity of the medical use of marijuana and assist any patient with the medical use, administration or preparation of marijuana; [2011, c. 407, Pt. B, §16 (AMD).]

G. (CONFLICT: Text as repealed and replaced by PL 2017, c. 447, §7) Manufacture marijuana products and marijuana concentrate for medical use, except that a primary caregiver may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; [2017, c. 447, §7 (RPR).]

G. (CONFLICT: Text as amended by PL 2017, c. 452, §4) Manufacture marijuana products and marijuana concentrate for medical use, except that a caregiver may not manufacture food, as defined in section 2152, subsection 4, unless the caregiver is licensed pursuant to section 2167 and except that a caregiver may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; [2017, c. 452, §4 (AMD).]

H. [2017, c. 452, §4 (RP).]

I. Hire any number of assistants to assist in performing the duties of the caregiver; [2017, c. 452, §4 (AMD).]

(Paragraph I as enacted by PL 2013, c. 371, §3 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 2, PARAGRAPH J) (Paragraph I as enacted by PL 2013, c. 393, §3 is REALLOCATED TO TITLE 22, SECTION 2423-A, SUBSECTION 2, PARAGRAPH K)

J. (REALLOCATED FROM T. 22, §2423-A, sub-§2, ¶I) Use a pesticide in the cultivation of marijuana plants if the pesticide is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered caregiver may not in the cultivation of marijuana plants use a pesticide unless the registered caregiver or the registered caregiver's assistant is certified in the application of the pesticide pursuant to section 1471-D and any assistant who has direct contact with treated plants has completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. An assistant of the registered caregiver who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230; [2017, c. 452, §4 (AMD).]

K. (REALLOCATED FROM T. 22, §2423-A, sub-§2, ¶I) Transfer marijuana plants and harvested marijuana to a qualifying patient, another caregiver or a registered dispensary for no remuneration; [2017, c. 452, §4 (AMD).]

K-1. Transfer to and accept from another registered caregiver or a dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A registered caregiver may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 30% of the mature marijuana plants grown by the caregiver over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 30% of the mature marijuana plants grown by the caregiver. A registered caregiver may transfer to or accept from other registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A registered caregiver that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this paragraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to another registered caregiver or dispensary to assist a qualifying patient; [2017, c. 452, §4 (NEW).]

L. (CONFLICT: Text as amended by PL 2017, c. 452, §4) Provide samples to a marijuana testing facility for testing and research purposes; [2017, c. 452, §4 (AMD).]

L. (CONFLICT: Text as amended by PL 2017, c. 447, §8) If the primary caregiver is a registered primary caregiver, provide samples to a marijuana testing facility for testing and research purposes; [2017, c. 447, §8 (AMD).]

M. (CONFLICT: Text as amended by PL 2017, c. 447, §8) If the primary caregiver is a registered primary caregiver, conduct marijuana testing at the request of anyone authorized to possess marijuana under this chapter for research and development purposes only; and [2017, c. 447, §8 (AMD) .]

M. (CONFLICT: Text as amended by PL 2017, c. 452, §4) Conduct marijuana testing at the request of anyone authorized to possess marijuana under this chapter for research and development purposes only; [2017, c. 452, §4 (AMD) .]

N. (CONFLICT: Text as enacted by PL 2017, c. 452, §4) Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the primary caregiver provided to the manufacturing facility. [2017, c. 452, §4 (NEW) .]

N. (CONFLICT: Text as enacted by PL 2017, c. 447, §9) Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the primary caregiver provided to the manufacturing facility. [2017, c. 447, §9 (NEW) .]

O. Transport marijuana plants or harvested marijuana for authorized conduct in accordance with this chapter; [2017, c. 452, §4 (NEW) .]

P. Operate one retail store to sell harvested marijuana to qualifying patients for the patients' medical use in accordance with this chapter; and [2017, c. 452, §4 (NEW) .]

Q. Be organized as any type of legal business entity recognized under the laws of the State. [2017, c. 452, §4 (NEW) .]

[2013, c. 371, §§1-3 (AMD); 2013, c. 393, §§1-3 (AMD); 2013, c. 396, §§5-7 (AMD); 2013, c. 588, Pt. D, §3 (AMD); 2015, c. 475, §§9-11 (AMD); 2017, c. 447, §§7-9 (AMD); 2017, c. 452, §4 (AMD) .]

3. Cultivation of marijuana. The following provisions apply to the cultivation of marijuana plants by a qualifying patient under subsection 1 and a caregiver under subsection 2.

A. A patient who elects to cultivate marijuana plants must keep the plants in a cultivation area unless the plants are being transported pursuant to subsection 1, paragraph L. Access to a cultivation area is limited to the patient, except that emergency services personnel, an assistant of a marijuana testing facility or a person who needs to gain access to a cultivation area in order to perform repairs or maintenance or to do construction may access a cultivation area to provide those professional services while under the direct supervision of the patient. [2017, c. 452, §4 (AMD) .]

B. A caregiver cultivating marijuana plants for a patient's medical use must keep all plants in a cultivation area unless the plants are being transported pursuant to subsection 2, paragraph O. Access to a cultivation area is limited to the caregiver, except that an elected official invited by the caregiver for the purpose of providing education to the elected official on cultivation by the caregiver, emergency services personnel, an assistant of a caregiver or a marijuana testing facility or a person who needs to gain access to a cultivation area in order to perform repairs or maintenance or to do construction may access a cultivation area to provide those professional services while under the direct supervision of the caregiver. [2017, c. 452, §4 (AMD) .]

B-1. Except as provided in paragraph C, a caregiver is required to register with the department. [2017, c. 452, §4 (NEW) .]

C. The following caregivers are not required to register with the department:

- (1) A caregiver designated to cultivate for a qualifying patient if that qualifying patient is a member of the household of that caregiver;
- (2) Two caregivers who are qualifying patients, if those caregivers are members of the same household and assist one another with cultivation; and

(3) A caregiver who cultivates for a qualifying patient if that qualifying patient is a member of the family of that caregiver. [2017, c. 452, §4 (AMD) .]

C-1. A caregiver operating under paragraph C may engage in the conduct authorized in subsection 2, except that a caregiver operating under paragraph C may not:

- (1) Cultivate marijuana plants for more than 2 members of the family or members of the same household;
- (2) Cultivate more than 6 mature marijuana plants and 12 immature marijuana plants for each qualifying patient who has designated the caregiver to cultivate marijuana plants on the patient's behalf;
- (3) Possess more than 8 pounds of harvested marijuana;
- (4) Sell marijuana plants or harvested marijuana at wholesale under subsection 2, paragraph K-1;
- (5) Use a pesticide under subsection 2, paragraph J;
- (6) Operate a retail store under subsection 2, paragraph P; or
- (7) Organize as a business entity under subsection 2, paragraph Q. [2017, c. 452, §4 (NEW) .]

D. Two caregivers who are members of the same family or household may share the same cultivation area. [2017, c. 452, §4 (AMD) .]

E. A person who is authorized to cultivate marijuana plants under subsection 1 or 2 and who is an assistant of a caregiver pursuant to subsection 2, paragraph I may not cultivate that person's own marijuana plants in the cultivation area by the caregiver who employs that person. [2017, c. 452, §4 (AMD) .]

[2013, c. 374, §1 (AMD); 2013, c. 424, Pt. G, §1 (AMD); 2013, c. 424, Pt. G, §2 (AFF); 2013, c. 501, §1 (AMD); 2017, c. 452, §4 (AMD) .]

4. Long-term care facility. A qualifying patient may designate a long-term care facility to assist with the qualifying patient's medical use of marijuana if that use is consistent with the facility's policy and is pursuant to subsection 1, paragraph F-1, subparagraph 2. If a long-term care facility is designated, the facility shall complete the registration process with the department and obtain a registration certificate for the facility. For a long-term care facility to be issued a registration certificate, staff persons of the facility who will be assisting a qualifying patient with the patient's medical use of marijuana in accordance with this chapter must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. The long-term care facility and the staff of the facility may not cultivate marijuana plants for the patient.

[2017, c. 452, §4 (AMD) .]

4-A. Use and storage in inpatient long-term care facility permitted. A qualifying patient who is a resident of a long-term care facility while in the facility may use forms of harvested marijuana consistent with the facility's policy. A qualifying patient who uses a form of harvested marijuana pursuant to this subsection may store the harvested marijuana in the qualifying patient's room and is not required to obtain a registry identification card or to designate the long-term care facility under subsection 1, paragraph F-1, subparagraph (2). A long-term care facility is not required to be designated by a qualifying patient who uses harvested marijuana pursuant to this subsection. This subsection does not limit the ability of a long-term care facility to prohibit or restrict the use or storage of harvested marijuana by a qualifying patient.

[2017, c. 452, §4 (AMD) .]

5. Incidental amount of marijuana.

[2017, c. 452, §4 (RP) .]

6. Onsite assessments by the department.

[2011, c. 407, Pt. B, §16 (RP) .]

7. Excess marijuana; forfeiture.

[2017, c. 452, §4 (RP) .]

8. Repeat forfeiture.

[2017, c. 452, §4 (RP) .]

9. Collectives prohibited.

[2017, c. 452, §4 (RP) .]

10. Marijuana testing facility. The following provisions apply to a marijuana testing facility.

A. (CONFLICT: Text as amended by PL 2017, c. 447, §10) A marijuana testing facility that meets the requirements of this subsection and any rules adopted under paragraph D may receive and possess samples from qualifying patients, designated primary caregivers, dispensaries and manufacturing facilities to provide testing for the cannabinoid profile and potency of the samples and for contaminants in the samples, including but not limited to mold, mildew, heavy metals, plant regulators and illegal pesticides. For the purposes of this paragraph, "plant regulator" has the same meaning as in Title 7, section 604, subsection 26. [2017, c. 447, §10 (AMD) .]

A. (CONFLICT: Text as amended by PL 2017, c. 452, §4) A marijuana testing facility that meets the requirements of this subsection and any rules adopted under paragraph D may receive and possess samples from qualifying patients, caregivers, dispensaries and manufacturing facilities to provide testing for the cannabinoid profile and potency of the samples and for contaminants in the samples, including but not limited to mold, mildew, heavy metals, plant regulators and illegal pesticides. For the purposes of this paragraph, "plant regulator" has the same meaning as in Title 7, section 604, subsection 26. [2017, c. 452, §4 (AMD) .]

B. An assistant of a marijuana testing facility may have access to cultivation areas pursuant to subsection 3, paragraphs A and B and section 2428, subsection 6, paragraph I. [2017, c. 452, §4 (AMD) .]

C. (CONFLICT: Text as amended by PL 2017, c. 447, §10) A marijuana testing facility shall:

- (1) Dispose of marijuana residue in a manner that prevents diversion of marijuana to persons not authorized to possess marijuana tested by the facility;
- (2) House and store marijuana in the facility's possession or control during the process of testing, transport or analysis in a manner to prevent diversion, theft or loss;
- (3) Label marijuana being transported to and from the facility with the following statement: "For Testing Purposes Only";
- (4) Maintain testing results as part of the facility's business books and records; and
- (5) Operate in accordance with any rules adopted by the department. [2017, c. 447, §10 (AMD) .]

C. (CONFLICT: Text as amended by PL 2017, c. 452, §4) A marijuana testing facility shall:

- (1) Dispose of samples in a manner that prevents diversion of samples to persons not authorized to possess the samples tested by the facility;
- (2) House and store samples in the facility's possession or control during the process of testing, transport or analysis in a manner to prevent diversion, theft or loss;

(3) Label samples being transported to and from the facility with the following statement: "For Testing Purposes Only"

(4) Maintain testing results as part of the facility's business books and records; and

(5) Operate in accordance with any rules adopted by the department. [2017, c. 452, §4 (AMD) .]

D. (CONFLICT: Text as amended by PL 2017, c. 447, §10) The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing marijuana testing facilities, including but not limited to:

(1) Marijuana testing facility director qualification requirements;

(2) Required security for marijuana testing facilities; and

(3) Requirements for the licensing, certifying or other approval of marijuana testing facilities.

The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this subsection. [2017, c. 447, §10 (AMD) .]

D. (CONFLICT: Text as amended by PL 2017, c. 452, §4) The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing marijuana testing facilities, including but not limited to:

(1) Marijuana testing facility officer or director qualification requirements;

(2) Required security for marijuana testing facilities; and

(3) Requirements for the licensing, certifying or other approval of marijuana testing facilities.

The failure of the department to adopt rules under this paragraph does not prevent a marijuana testing facility from engaging in activities in compliance with this chapter. [2017, c. 452, §4 (AMD) .]

E. (CONFLICT: Text as enacted by PL 2017, c. 447, §10) A marijuana testing facility shall obtain and must be able to produce, upon demand of the department or a municipal code enforcement officer, documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body. The department may inspect a marijuana testing facility during regular business hours and hours of apparent activity for compliance with this Act. [2017, c. 447, §10 (NEW) .]

E. (CONFLICT: Text as enacted by PL 2017, c. 452, §4) A marijuana testing facility shall obtain and must be able to produce, upon demand of the department or a municipal code enforcement officer, documentation of the facility's accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body. The department may inspect a marijuana testing facility during regular business hours and hours of apparent activity for compliance with this chapter. [2017, c. 452, §4 (NEW) .]

[2017, c. 447, §10 (AMD); 2017, c. 452, §4 (AMD) .]

11. Immunity.

A. [2017, c. 452, §4 (RP) .]

B. (CONFLICT: Text as amended by PL 2017, c. 447, §11) A principal officer, board member, agent or employee of a marijuana testing facility is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for working for or with a marijuana testing facility to test marijuana provided by a qualifying patient, registered primary caregiver, dispensary or manufacturing facility. [2017, c. 447, §11 (AMD) .]

B. (CONFLICT: Text as repealed by PL 2017, c. 452, §4) [2017, c. 452, §4 (RP).]

[2015, c. 452, §4 (RP); 2015, c. 475, §14 (AMD); 2017, c. 447, §11 (AMD); 2017, c. 452, §4 (RP) .]

12. (CONFLICT: Text as amended by PL 2017, c. 447, §12) Interest. A principal officer, board member or employee of a registered dispensary, primary caregiver or manufacturing facility may not have a financial or other interest in a marijuana testing facility providing services associated with product labeling for that dispensary, primary caregiver or manufacturing facility.

[2017, c. 447, §12 (AMD) .]

12. (CONFLICT: Text as amended by PL 2017, c. 452, §4) Interest. A caregiver or an officer or director of a registered dispensary, registered caregiver or manufacturing facility may not have a financial or other interest in a marijuana testing facility providing services associated with product labeling for that dispensary, caregiver or manufacturing facility.

[2017, c. 452, §4 (AMD) .]

13. Moratorium ordinance.

[2017, c. 447, §13 (RP); 2017, c. 452, §4 (RP); T. 22, §2423-A, sub-§13 (RP) .]

14. Municipal regulation. Pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate registered primary caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities, except that municipalities may not prohibit or limit the number of registered primary caregivers.

[2017, c. 447, §14 (NEW) .]

SECTION HISTORY

2009, c. 631, §21 (NEW). 2009, c. 631, §51 (AFF). RR 2011, c. 1, §31 (COR). 2011, c. 383, §1 (AMD). 2011, c. 407, Pt. B, §16 (AMD). RR 2013, c. 1, §§39, 40 (COR). 2013, c. 371, §§1-3 (AMD). 2013, c. 374, §1 (AMD). 2013, c. 393, §§1-3 (AMD). 2013, c. 396, §§2-8 (AMD). 2013, c. 424, Pt. G, §1 (AMD). 2013, c. 424, Pt. G, §2 (AFF). 2013, c. 498, §1 (AMD). 2013, c. 501, §1 (AMD). 2013, c. 516, §§6, 7 (AMD). 2013, c. 520, §1 (AMD). 2013, c. 588, Pt. A, §§25, 26 (AMD). 2013, c. 588, Pt. D, §3 (AMD). 2015, c. 475, §§6-14 (AMD). 2017, c. 271, §1 (AMD). 2017, c. 447, §§4-14 (AMD). 2017, c. 452, §4 (AMD).

§2423-B. AUTHORIZED CONDUCT BY A MEDICAL PROVIDER

A medical provider may provide a written certification in accordance with this section for the medical use of marijuana under this chapter and, after having done so, may otherwise state that in the medical provider's professional opinion a qualifying patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's medical diagnosis. [2017, c. 452, §5 (AMD) .]

1. Adult qualifying patient. Prior to providing written certification for the medical use of marijuana under this section, a medical provider shall inform an adult qualifying patient or the patient's legal guardian or representative of the risks and benefits of the medical use of marijuana and that the patient may benefit from the medical use of marijuana.

[2017, c. 452, §5 (AMD) .]

2. Minor qualifying patient.

[2017, c. 452, §5 (RP) .]

2-A. Minor qualifying patient. A medical provider who provides a written certification to a patient who has not attained 18 years of age:

A. Shall inform the qualifying patient and the parent, legal guardian or person having legal custody of the patient of the risks and benefits of the medical use of marijuana and that the patient may benefit from the medical use of marijuana; [2017, c. 452, §5 (NEW) .]

B. May provide a written certification to a qualifying patient if the patient is eligible for hospice services and has a medical diagnosis that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana; [2017, c. 452, §5 (NEW) .]

C. May provide a written certification to a qualifying patient if the patient has a medical diagnosis of epilepsy, cancer, a developmental disability or an intellectual disability that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana; and [2017, c. 452, §5 (NEW) .]

D. If a patient does not satisfy the requirements of paragraphs B and C, may provide a written certification to a qualifying patient after consulting with a physician from a list of physicians who may be willing to consult with a medical provider maintained by the department that is compiled by the department after consultation with the Department of Health and Human Services and statewide associations representing licensed medical professionals. The consultation between the medical provider and the consulting physician may consist of examination of the patient or review of the patient's medical file. The consulting physician shall provide an advisory opinion to the medical provider and the parent, legal guardian or person having legal custody of the qualifying patient concerning whether the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's medical diagnosis. If the department or the consulting physician does not respond to a request by the medical provider within 10 days of receipt of the request, the medical provider may provide a written certification without consultation with a physician.

The parent, legal guardian or person having legal custody of a qualifying patient who has not attained 18 years of age may submit a request to the department for reimbursement of the costs associated with obtaining a 2nd opinion required by this paragraph. Requests must be submitted on a form developed by the department. The department shall review the family's annual income and expenses in determining whether to reimburse the family from the Medical Use of Marijuana Fund under section 2430 for the cost of the required 2nd consultation.

The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to implement the reimbursement request under this paragraph. [2017, c. 452, §5 (NEW) .]

[2017, c. 452, §5 (NEW) .]

2-B. Adult and minor patients with substance use disorder. Prior to providing written certification for the medical use of marijuana under this section for a medical diagnosis of substance use disorder that, in the medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical

use of marijuana, the medical provider shall develop a recovery plan with the patient. For purposes of this subsection, "substance use disorder" means a diagnosis related to alcohol or drug abuse covered by Title 5, chapter 521.

[2017, c. 452, §5 (NEW) .]

2-C. Bona fide provider-patient relationship. A written certification may be made only in the course of a bona fide medical provider-patient relationship after the medical provider has completed a full assessment of the patient's medical history. If a patient has not provided a medical provider who is not the patient's primary care provider with the name and contact information of the patient's primary care provider, a medical provider shall conduct an in-person consultation with the patient prior to providing a written certification.

[2017, c. 452, §5 (NEW) .]

3. Expiration. A written certification form for the medical use of marijuana under this section is valid for the term provided by the qualifying patient's medical provider.

[2017, c. 452, §5 (AMD) .]

4. Form; content. A written certification under this section must be in the form required by rule adopted by the department and may not require a qualifying patient's medical provider to state the patient's specific medical diagnosis.

[2017, c. 452, §5 (AMD) .]

5. Possible sanctions. Nothing in this chapter prevents a professional licensing board from sanctioning a medical provider for failing to properly evaluate or treat a patient's medical diagnosis or otherwise violating the applicable standard of care for evaluating or treating medical diagnoses.

[2017, c. 452, §5 (AMD) .]

6. Certification issued based on medical diagnosis. A medical provider may not condition the issuance of a written certification for the medical use of marijuana on any requirements other than that the patient's medical diagnosis may be alleviated by the therapeutic or palliative medical use of marijuana. Nothing in this section may be construed to prevent a medical provider from exercising professional judgment in declining to issue a certification for the medical use of marijuana.

[2017, c. 452, §5 (AMD) .]

7. Patient referral disclosure of interest. Prior to providing a referral to a qualifying patient for goods and services associated with a certification for the medical use of marijuana to an entity in which the medical provider has a direct or indirect financial interest, a medical provider shall provide written disclosure to the qualifying patient regarding any direct or indirect financial interest the medical provider has or may have in the resulting referral and shall maintain a copy of this disclosure in the qualifying patient's record.

[2015, c. 475, §15 (NEW) .]

8. Continuing medical education. A medical provider who has not previously provided a written certification to a qualifying patient for the medical use of marijuana shall, prior to providing a written certification to a qualifying patient, submit evidence, satisfactory to the department, of successful completion of a one-hour course of continuing medical education relating to medical marijuana within the preceding 24 months.

[2017, c. 452, §5 (NEW) .]

SECTION HISTORY

2009, c. 631, §22 (NEW). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §17 (RPR). 2013, c. 516, §8 (AMD). 2015, c. 475, §15 (AMD). 2017, c. 409, Pt. E, §4 (AMD). 2017, c. 452, §5 (AMD).

§2423-C. AUTHORIZED CONDUCT

A person may provide a qualifying patient or a caregiver with marijuana paraphernalia for purposes of the qualifying patient's medical use of marijuana in accordance with this chapter and be in the presence or vicinity of the medical use of marijuana as allowed under this chapter. [2017, c. 452, §6 (AMD) .]

SECTION HISTORY

2009, c. 631, §23 (NEW). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §18 (AMD). 2017, c. 452, §6 (AMD).

§2423-D. AUTHORIZED CONDUCT BY A VISITING QUALIFYING PATIENT

A visiting qualifying patient from another jurisdiction that authorizes the medical use of marijuana pursuant to a law recognized by the department who possesses a valid written certification as described in section 2423-B from the visiting qualifying patient's medical provider and a valid medical marijuana certification from that other jurisdiction and photographic identification or a driver's license from that jurisdiction may engage in conduct authorized for a qualifying patient under this chapter, except that a visiting qualifying patient may not: [2017, c. 452, §7 (AMD) .]

1. Cultivate. Cultivate marijuana plants;

[2017, c. 452, §7 (NEW) .]

2. Possess. Possess more than 2 1/2 ounces of harvested marijuana in a 15-day period;

[2017, c. 452, §7 (NEW) .]

3. Transfer or furnish. Transfer or furnish harvested marijuana to another person;

[2017, c. 452, §7 (NEW) .]

4. Obtain. Obtain harvested marijuana from a registered caregiver or dispensary unless the visiting qualifying patient has designated the registered caregiver or dispensary in order to have that caregiver or dispensary provide harvested marijuana to the visiting qualifying patient. A designation pursuant to this subsection must be in a standardized written document, developed by the department, and signed and dated by the visiting qualifying patient. The designation is valid for the term provided by the visiting qualifying patient's medical provider pursuant to section 2423-B. The document must include the signed

acknowledgment of the registered caregiver or dispensary that the caregiver or dispensary may be contacted to confirm the designation of the caregiver or dispensary to provide harvested marijuana to the visiting qualifying patient.

[2017, c. 452, §7 (NEW) .]

SECTION HISTORY

2009, c. 631, §24 (NEW). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §19 (AMD). 2013, c. 516, §9 (AMD). 2017, c. 452, §7 (AMD).

§2423-E. REQUIREMENTS

(REPEALED)

SECTION HISTORY

2009, c. 631, §25 (NEW). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §20 (AMD). 2015, c. 475, §§16-18 (AMD). 2017, c. 252, §1 (AMD). 2017, c. 452, §8 (RP).

§2423-F. MARIJUANA MANUFACTURING FACILITIES

(CONFLICT)

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION CONFLICT: Text as enacted by PL 2017, c. 447, §15)

A person may not manufacture marijuana products or marijuana concentrate or engage in marijuana extraction except as provided in this chapter. [2017, c. 447, §15 (NEW) .]

1. Tier 1 manufacturing facility. A tier 1 manufacturing facility registered pursuant to subsection 8 may engage in the activities authorized under subsection 4 in accordance with rules adopted pursuant to subsection 10 and may possess up to 40 pounds of harvested marijuana and marijuana in various stages of processing at any one time.

[2017, c. 447, §15 (NEW) .]

2. Tier 2 manufacturing facility. A tier 2 manufacturing facility registered pursuant to subsection 8 may engage in the activities authorized under subsection 4 in accordance with rules adopted pursuant to subsection 10 and may possess up to 200 pounds of harvested marijuana and marijuana in various stages of processing at any one time.

[2017, c. 447, §15 (NEW) .]

3. Authorization for extraction using inherently hazardous substances. This subsection governs the authority of a person or entity to engage in marijuana extraction using inherently hazardous substances in accordance with subsection 5.

A. A qualifying patient, primary caregiver, registered dispensary or manufacturing facility may engage in marijuana extraction using inherently hazardous substances if the person or entity can produce, upon demand of the department:

- (1) Certification from a professional engineer licensed in this State of the safety of the equipment used for marijuana extraction and the location of the equipment and the professional engineer's approval of the standard operating procedures for the marijuana extraction;

(2) Documentation from a professional engineer licensed in this State or a state or local official authorized to certify compliance that the equipment used for marijuana extraction and the location of the equipment comply with state law and all applicable local and state building codes, electrical codes and fire codes, including the chapters of the most recent National Fire Protection Association Fire Code relating to marijuana extraction facilities;

(3) Documentation from the manufacturer of the marijuana extraction system or a professional engineer licensed in this State showing that a professional grade, closed-loop extraction system that is capable of recovering the solvents used to produce marijuana concentrate is used by the person or entity; and

(4) Evidence that the person or entity has provided notice to the department of the person's or entity's intent to engage in marijuana extraction using inherently hazardous substances and the location where the marijuana extraction will occur prior to engaging in marijuana extraction using inherently hazardous substances.

A person or entity that intends to engage in marijuana extraction using inherently hazardous substances shall notify the department of that intention prior to engaging in marijuana extraction using inherently hazardous substances. The department may deny an application of a person or entity authorized under this subsection to register pursuant to rules adopted under subsection 10 if the person or entity did not notify the department in accordance with this subsection. [2017, c. 447, §15 (NEW).]

B. A person or entity that is not a qualifying patient, primary caregiver or registered dispensary and that meets the requirements of a person or entity authorized under paragraph A, pays the fee required by section 2425, subsection 12 and meets the requirements of rules adopted under subsection 10 is authorized to engage in marijuana extraction using inherently hazardous substances and may possess up to 40 pounds of harvested marijuana and marijuana in various stages of processing at any one time. [2017, c. 447, §15 (NEW).]

[2017, c. 447, §15 (NEW) .]

4. Authorized conduct; manufacturing facilities. A registered manufacturing facility:

A. May manufacture marijuana products and marijuana concentrate for medical use using any method that does not involve an inherently hazardous substance, except that a registered manufacturing facility may manufacture marijuana concentrate using inherently hazardous substances if authorized under subsection 3; [2017, c. 447, §15 (NEW).]

B. May obtain harvested marijuana from a qualifying patient, a primary caregiver or a registered dispensary and may transfer marijuana products and marijuana concentrate to the person or entity that provided the harvested marijuana used to manufacture the marijuana product or marijuana concentrate; [2017, c. 447, §15 (NEW).]

C. May transfer marijuana products or marijuana concentrate to a marijuana testing facility for testing; [2017, c. 447, §15 (NEW).]

D. May conduct testing of marijuana products or marijuana concentrate manufactured by the facility for research and development purposes; [2017, c. 447, §15 (NEW).]

E. May receive reasonable compensation for manufacturing marijuana products or marijuana concentrate; [2017, c. 447, §15 (NEW).]

F. Shall dispose of marijuana used in the manufacturing process in a manner that prevents diversion of marijuana to persons not authorized to possess marijuana or marijuana products possessed by the facility and in accordance with rules adopted by the department; and [2017, c. 447, §15 (NEW).]

G. May employ staff. [2017, c. 447, §15 (NEW).]

[2017, c. 447, §15 (NEW) .]

5. Authorized conduct; extraction using inherently hazardous substances. A person or entity that is authorized to engage in marijuana extraction using inherently hazardous substances pursuant to subsection 3:

A. May engage in marijuana extraction to produce marijuana concentrate for medical use; [2017, c. 447, §15 (NEW).]

B. May obtain harvested marijuana from a qualifying patient, a primary caregiver or a registered dispensary and may transfer marijuana concentrate to the person or entity that provided the harvested marijuana used to produce the marijuana concentrate; [2017, c. 447, §15 (NEW).]

C. May transfer marijuana concentrate to a marijuana testing facility for testing; [2017, c. 447, §15 (NEW).]

D. May conduct testing of marijuana concentrate produced by the person or entity for research and development purposes; [2017, c. 447, §15 (NEW).]

E. May receive reasonable compensation for producing marijuana concentrate; [2017, c. 447, §15 (NEW).]

F. Shall dispose of marijuana used in the extraction process in a manner that prevents diversion of marijuana to persons not authorized to possess marijuana or marijuana products possessed by the person or entity and in accordance with rules adopted by the department; and [2017, c. 447, §15 (NEW).]

G. May employ staff, except that a qualifying patient authorized under subsection 3 may not employ staff and a primary caregiver shall comply with the employment limit established in section 2423-A, subsection 2, paragraph I. [2017, c. 447, §15 (NEW).]

Notwithstanding the authorizations established in this subsection, a person, entity or facility that is authorized to engage in marijuana extraction using inherently hazardous substances pursuant to subsection 3 shall comply with any rules adopted pursuant to subsection 10.

[2017, c. 447, §15 (NEW) .]

6. Retail sale prohibited. A registered manufacturing facility or a person or entity authorized to engage in marijuana extraction under subsection 3 may not engage in retail sales of marijuana products or marijuana concentrate unless the person or entity is authorized to engage in retail sales under this chapter.

[2017, c. 447, §15 (NEW) .]

7. Food establishment license required to manufacture food products. A registered manufacturing facility or a person or entity authorized to manufacture marijuana concentrate using inherently hazardous substances may not manufacture edible marijuana products or marijuana tinctures unless licensed pursuant to section 2167.

[2017, c. 447, §15 (NEW) .]

8. Registration requirements. This section governs registration requirements of a manufacturing facility or a person or entity authorized to engage in marijuana extraction under subsection 3 using inherently hazardous substances and the principal officers, board members and employees of the facility, person or entity.

A. In accordance with rules adopted under subsection 10, the department shall register and issue a registration certificate with a registry identification number to a manufacturing facility or a person or entity authorized to engage in marijuana extraction within 30 days to the facility, person or entity if the facility, person or entity provides:

- (1) The annual fee required pursuant to section 2425, subsection 12;
- (2) The legal name of the facility, person or entity and, if incorporated, evidence of incorporation and evidence that the corporation is in good standing with the Secretary of State;

(3) The physical address of the facility or entity, or the physical address where an applicant who is an individual will engage in the activities authorized under this section. If the facility or entity changes its physical location, or if a person registered under this subsection changes the location at which the person engages in activities authorized under this section, the facility, entity or person shall notify the department of the new location; and

(4) The name, address and date of birth of each principal officer, board member and employee of the facility or entity. [2017, c. 447, §15 (NEW).]

B. In accordance with rules adopted under subsection 10, the department shall issue registry identification cards to the principal officers, board members and employees of a registered manufacturing facility or entity authorized to engage in marijuana extraction using inherently hazardous substances within 5 business days of approving an application or renewal under this section. A registry identification card is required to be issued to a principal officer, board member or employee of a registered manufacturing facility or entity authorized to engage in marijuana extraction using inherently hazardous substances. Registry identification cards expire one year after the date of issuance. A registry identification card issued under this paragraph must contain:

- (1) The name of the cardholder;
- (2) The date of issuance and expiration date of the registry identification card; and
- (3) A random identification number that is unique to the cardholder.

The department may not issue a registry identification card to any principal officer, board member or employee of a registered manufacturing facility or person or entity authorized to engage in marijuana extraction using inherently hazardous substances who has been convicted of a disqualifying drug offense. The department shall conduct a criminal history record check of each person, principal officer, board member or employee subject to this subsection on an annual basis in order to ensure that each person, principal officer, board member or employee has not been convicted of a disqualifying drug offense. If the department determines not to issue a registry identification card for a person, principal officer, board member or employee, the department shall notify the registered manufacturing facility or person or entity authorized to engage in marijuana extraction using inherently hazardous substances in writing of the reason for denying the registry identification card. [2017, c. 447, §15 (NEW).]

[2017, c. 447, §15 (NEW) .]

9. Packaging and labeling requirements. A manufacturing facility shall package and label its marijuana products and marijuana concentrate prior to transfer from the manufacturing facility in a form intended for use or consumption by a qualifying patient in tamper-evident packaging and with a label that includes the following information:

A. The registry identification number of the manufacturing facility; [2017, c. 447, §15 (NEW) .]

B. Information that allows the provider of the marijuana to the manufacturing facility to confirm that the marijuana provided was used to manufacture the marijuana product or marijuana concentrate transferred back to that provider; [2017, c. 447, §15 (NEW) .]

C. Ingredients other than marijuana contained in the marijuana product or marijuana concentrate; and [2017, c. 447, §15 (NEW) .]

D. Any chemicals, solvents or other substances used to manufacture the marijuana product or marijuana concentrate. [2017, c. 447, §15 (NEW) .]

[2017, c. 447, §15 (NEW) .]

10. Rulemaking. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing manufacturing facilities, including but not limited to:

- A. Requirements for the registration of a manufacturing facility and the principal officers, board members and employees of a registered manufacturing facility; [2017, c. 447, §15 (NEW).]
- B. Requirements for engaging in marijuana extraction using inherently hazardous substances; [2017, c. 447, §15 (NEW).]
- C. Manufacturing facility director or principal officer qualification requirements; [2017, c. 447, §15 (NEW).]
- D. Required security for manufacturing facilities; [2017, c. 447, §15 (NEW).]
- E. Requirements of a disposal plan for marijuana used in the manufacturing process; [2017, c. 447, §15 (NEW).]
- F. Minimum record-keeping requirements, including an annual audit requirement; and [2017, c. 447, §15 (NEW).]
- G. Minimum content of educational materials provided to the recipient of the marijuana products or marijuana concentrate. [2017, c. 447, §15 (NEW).]

The failure of the department to adopt rules under this subsection does not prevent a person or entity authorized pursuant to subsection 3, paragraph A from engaging in conduct authorized under this section.

[2017, c. 447, §15 (NEW) .]

11. Multiple authorizations. A person or entity registered pursuant to subsection 8 may also be a qualifying patient or a primary caregiver, and an entity registered pursuant to subsection 8 may also be a registered dispensary. A person or entity authorized to possess marijuana under this Act may possess the amount allowed for that person or entity in addition to the possession amount allowed under this section if registered pursuant to this section. The marijuana possessed must be distinguishable with respect to the purposes for which it is authorized to be possessed.

[2017, c. 447, §15 (NEW) .]

12. Record keeping. A registered manufacturing facility or person or entity authorized to engage in marijuana extraction using inherently hazardous substances under subsection 3 shall maintain records of all transactions for a minimum of one year after the date of the transaction.

[2017, c. 447, §15 (NEW) .]

13. Compliance. The department may inspect a manufacturing facility during regular business hours and hours of apparent activity for compliance with this chapter.

[2017, c. 447, §15 (NEW) .]

14. Immunity. The immunity provisions in this subsection apply to manufacturing facilities and the officers, board members, agents and employees of manufacturing facilities.

A. A manufacturing facility is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for acting in accordance with this section to assist with the medical use of marijuana in accordance with this chapter. [2017, c. 447, §15 (NEW).]

B. A principal officer, board member, agent or employee of a manufacturing facility is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for working for or with a manufacturing facility to provide

prepared marijuana to qualifying patients, primary caregivers, registered dispensaries or marijuana testing facilities or to otherwise assist with the medical use of marijuana in accordance with this chapter. [2017, c. 447, §15 (NEW) .]

[2017, c. 447, §15 (NEW) .]

SECTION HISTORY

2017, c. 447, §15 (NEW) . 2017, c. 452, §9 (NEW) .

§2423-F. MARIJUANA MANUFACTURING FACILITIES

(CONFLICT)

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION CONFLICT: Text as enacted by PL 2017, c. 452, §9)

A person may not manufacture marijuana products or marijuana concentrate or engage in marijuana extraction except as provided in this chapter. [2017, c. 452, §9 (NEW) .]

1. Tier 1 manufacturing facility. A tier 1 manufacturing facility registered pursuant to subsection 8 may engage in the activities authorized under subsection 4 in accordance with rules adopted pursuant to subsection 10 and may possess up to 40 pounds of harvested marijuana.

[2017, c. 452, §9 (NEW) .]

2. Tier 2 manufacturing facility. A tier 2 manufacturing facility registered pursuant to subsection 8 may engage in the activities authorized under subsection 4 in accordance with rules adopted pursuant to subsection 10 and may possess up to 200 pounds of harvested marijuana.

[2017, c. 452, §9 (NEW) .]

3. Authorization for extraction using inherently hazardous substances. This subsection governs the authority of a person to engage in marijuana extraction using inherently hazardous substances in accordance with subsection 5.

A. A qualifying patient, caregiver, registered dispensary or manufacturing facility may engage in marijuana extraction using inherently hazardous substances if the person can produce, upon demand of the department:

(1) Certification from a professional engineer licensed in this State of the safety of the equipment used for marijuana extraction and the location of the equipment and the professional engineer's approval of the standard operating procedures for the marijuana extraction;

(2) Documentation from a professional engineer licensed in this State or a state or local official authorized to certify compliance that the equipment used for marijuana extraction and the location of the equipment comply with state law and all applicable local and state building codes, electrical codes and fire codes, including the chapters of the most recent National Fire Protection Association Fire Code relating to marijuana extraction facilities;

(3) Documentation from the manufacturer of the marijuana extraction system or a professional engineer licensed in this State showing that a professional grade, closed-loop extraction system that is capable of recovering the solvents used to produce marijuana concentrate is used by the person; and

(4) Evidence that the person has provided notice to the department of the person's intent to engage in marijuana extraction using inherently hazardous substances and the location where the marijuana extraction will occur prior to engaging in marijuana extraction using inherently hazardous substances.

A person who intends to engage in marijuana extraction using inherently hazardous substances shall notify the department of that intention prior to engaging in marijuana extraction using inherently hazardous substances. The department may deny an application of a person authorized under this paragraph to register pursuant to rules adopted under subsection 10 if the person did not notify the department in accordance with this paragraph. [2017, c. 452, §9 (NEW).]

B. A person who is not a qualifying patient, caregiver or dispensary and that meets the requirements of a person authorized under paragraph A, pays the fee required by section 2425-A, subsection 10 and meets the requirements of rules adopted under subsection 10 is authorized to engage in marijuana extraction using inherently hazardous substances and may possess up to 40 pounds of harvested marijuana in accordance with subsection 5. [2017, c. 452, §9 (NEW).]

[2017, c. 452, §9 (NEW) .]

4. Authorized conduct; manufacturing facilities. A registered manufacturing facility:

A. May manufacture marijuana products and marijuana concentrate for medical use using any method that does not involve an inherently hazardous substance, except that a registered manufacturing facility may manufacture marijuana concentrate using inherently hazardous substances if authorized under subsection 3; [2017, c. 452, §9 (NEW).]

B. May obtain harvested marijuana from a qualifying patient, a caregiver or a registered dispensary and may transfer marijuana products and marijuana concentrate to the person that provided the harvested marijuana used to manufacture the marijuana product or marijuana concentrate; [2017, c. 452, §9 (NEW) .]

C. May transfer samples to a marijuana testing facility for testing; [2017, c. 452, §9 (NEW) .]

D. May conduct testing of marijuana products or marijuana concentrate manufactured by the facility for research and development purposes; [2017, c. 452, §9 (NEW) .]

E. May receive reasonable compensation for manufacturing marijuana products or marijuana concentrate; [2017, c. 452, §9 (NEW) .]

F. Shall dispose of harvested marijuana used in the manufacturing process in a manner that prevents its diversion to persons not authorized to possess harvested marijuana possessed by the facility and in accordance with rules adopted by the department; and [2017, c. 452, §9 (NEW) .]

G. May hire any number of assistants to assist in performing the duties of the manufacturing facility. [2017, c. 452, §9 (NEW) .]

[2017, c. 452, §9 (NEW) .]

5. Authorized conduct; extraction using inherently hazardous substances. A person that is authorized to engage in marijuana extraction using inherently hazardous substances pursuant to subsection 3:

A. May engage in marijuana extraction to produce marijuana concentrate for medical use; [2017, c. 452, §9 (NEW) .]

B. May obtain harvested marijuana from a qualifying patient, a caregiver or a dispensary and may transfer marijuana concentrate to the person that provided the harvested marijuana used to produce the marijuana concentrate; [2017, c. 452, §9 (NEW) .]

C. May transfer samples to a marijuana testing facility for testing; [2017, c. 452, §9 (NEW) .]

D. May conduct testing of marijuana concentrate produced by the person for research and development purposes; [2017, c. 452, §9 (NEW) .]

E. May receive reasonable compensation for producing marijuana concentrate; [2017, c. 452, §9 (NEW) .]

F. Shall dispose of harvested marijuana used in the extraction process in a manner that prevents its diversion to persons not authorized to possess harvested marijuana possessed by the person and in accordance with rules adopted by the department; and [2017, c. 452, §9 (NEW).]

G. May hire any number of assistants to assist in performing the activities authorized under this subsection, except that a qualifying patient authorized under subsection 3 may not hire an assistant. [2017, c. 452, §9 (NEW).]

Notwithstanding the authorizations established in this subsection, a person that is authorized to engage in marijuana extraction using inherently hazardous substances pursuant to subsection 3 shall comply with any rules adopted pursuant to subsection 10.

[2017, c. 452, §9 (NEW) .]

6. Retail sale prohibited. A registered manufacturing facility or a person authorized to engage in marijuana extraction using inherently hazardous substances under subsection 3 may not engage in retail sales of marijuana products or marijuana concentrate unless the person is authorized to engage in retail sales under this chapter.

[2017, c. 452, §9 (NEW) .]

7. Food establishment license required to manufacture food products. A registered manufacturing facility or a person authorized to produce marijuana concentrate using inherently hazardous substances may not manufacture edible marijuana products or marijuana tinctures unless licensed pursuant to section 2167.

[2017, c. 452, §9 (NEW) .]

8. Registration requirements. This subsection governs registration requirements of a manufacturing facility or a person authorized to engage in marijuana extraction using inherently hazardous substances under subsection 3 and the officer or director or assistant of the facility or person.

A. In accordance with rules adopted under subsection 10, the department shall register and issue a registration certificate with a registry identification number to a manufacturing facility or a person authorized to engage in marijuana extraction within 30 days to the facility or person if the facility or person provides:

- (1) The annual fee required pursuant to section 2425-A, subsection 10;
- (2) The legal name of the facility or person and, if incorporated, evidence of incorporation and evidence that the corporation is in good standing with the Secretary of State;
- (3) The physical address of the facility or person or the physical address where an applicant who is an individual will engage in the activities authorized under this section. If the facility or person changes its physical location, or if a person registered under this subsection changes the location at which the person engages in activities authorized under this section, the facility or person shall notify the department of the new location; and
- (4) The name, address and date of birth of each officer or director of the facility or person.

[2017, c. 452, §9 (NEW).]

B. In accordance with rules adopted under subsection 10, the department shall issue registry identification cards to the officer or director or assistant of a registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances within 5 business days of approving an application or renewal under this subsection. A registry identification card is required to be issued to an officer or director or assistant of a registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances. A registry identification card expires one year after the date of issuance. A registry identification card issued under this paragraph must contain:

- (1) The name of the cardholder;
- (2) The date of issuance and expiration date of the registry identification card; and
- (3) A random identification number that is unique to the cardholder.

The department may not issue a registry identification card to an officer or director or assistant of a registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances who has been convicted of a disqualifying drug offense. The department shall conduct a criminal history record check of each person, officer or director or assistant subject to this subsection on an annual basis.

If the department determines not to issue a registry identification card for a person, officer or director or assistant, the department shall notify the registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances in writing of the reason for denying the registry identification card. [2017, c. 452, §9 (NEW) .]

[2017, c. 452, §9 (NEW) .]

9. Packaging and labeling requirements. A manufacturing facility shall package and label its marijuana products and marijuana concentrate prior to transfer from the manufacturing facility in a form intended for use or consumption by a qualifying patient in tamper-evident packaging and with a label that includes the following information:

A. The registry identification number of the manufacturing facility; [2017, c. 452, §9 (NEW) .]

B. Information that allows the provider of the marijuana to the manufacturing facility to confirm that the marijuana provided was used to manufacture the marijuana product or marijuana concentrate transferred back to that provider; [2017, c. 452, §9 (NEW) .]

C. Ingredients other than material derived from marijuana plants contained in the marijuana product or marijuana concentrate; and [2017, c. 452, §9 (NEW) .]

D. Any chemicals, solvents or other substances used to manufacture the marijuana product or marijuana concentrate. [2017, c. 452, §9 (NEW) .]

[2017, c. 452, §9 (NEW) .]

10. Rulemaking. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A governing manufacturing facilities, including but not limited to:

A. Requirements for the registration of a manufacturing facility and an officer or director or assistant of a registered manufacturing facility; [2017, c. 452, §9 (NEW) .]

B. Requirements for engaging in marijuana extraction using inherently hazardous substances; [2017, c. 452, §9 (NEW) .]

C. Manufacturing facility officer or director qualification requirements; [2017, c. 452, §9 (NEW) .]

D. Required security for manufacturing facilities; [2017, c. 452, §9 (NEW) .]

E. Requirements of a disposal plan for harvested marijuana used in the manufacturing process; and [2017, c. 452, §9 (NEW) .]

F. Minimum record-keeping requirements, including an annual audit requirement. [2017, c. 452, §9 (NEW) .]

The failure of the department to adopt rules under this subsection does not prevent a person authorized pursuant to subsection 3, paragraph A from engaging in conduct authorized under this section.

[2017, c. 452, §9 (NEW) .]

11. Multiple authorizations. A facility or person registered pursuant to subsection 8 may also be a qualifying patient, a caregiver or a registered dispensary. A facility or person authorized to possess marijuana under this chapter may possess the amount allowed for that facility or person in addition to the possession amount allowed under this section if the facility or person is registered pursuant to this section. The marijuana possessed must be distinguishable with respect to the purposes for which it is authorized to be possessed.

[2017, c. 452, §9 (NEW) .]

12. Record keeping. A registered manufacturing facility or person authorized to engage in marijuana extraction using inherently hazardous substances under subsection 3 shall maintain records of all transactions in accordance with section 2430-G.

[2017, c. 452, §9 (NEW) .]

13. Colocation of facilities. A manufacturing facility that is also licensed as a retail marijuana products manufacturing facility under Title 28-B, chapter 1 may manufacture marijuana products and marijuana concentrate within the same facility in which the licensee also manufactures marijuana products or marijuana concentrate for medical use pursuant to this chapter. The following items or areas within the shared facility may be shared for both manufacturing pursuant to this chapter and pursuant to Title 28-B, chapter 1:

A. Manufacturing-related and nonmanufacturing-related equipment, except that manufacturing-related equipment may not be simultaneously used for manufacturing pursuant to this chapter and pursuant to Title 28-B, chapter 1; [2017, c. 452, §9 (NEW) .]

B. Manufacturing-related and nonmanufacturing-related supplies or products not containing harvested marijuana and the storage areas for those supplies or products; and [2017, c. 452, §9 (NEW) .]

C. General office space, bathrooms, entryways and walkways. [2017, c. 452, §9 (NEW) .]

[2017, c. 452, §9 (NEW) .]

SECTION HISTORY

2017, c. 447, §15 (NEW). 2017, c. 452, §9 (NEW) .

§2424. RULES

1. Rulemaking.

[2017, c. 409, Pt. E, §5 (RP) .]

1-A. Rulemaking. The department may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 452, §10 (NEW) .]

2. Adding debilitating medical conditions.

[2017, c. 452, §10 (RP) .]

3. Registration. The department shall adopt rules governing the manner in which it considers applications for and renewals of registry identification cards or registration certificates for a person required to obtain a registry identification card or registration certificate under this chapter. The department's rules must require the submission of an application, must require replacement of a registry identification card or registration certificate that has been lost, destroyed or stolen or that contains information that is no longer

accurate and must establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this chapter and that are consistent with the provisions of section 2425-A, subsection 10. The department may establish a sliding scale of application and renewal fees based upon a registered patient's family income and status as a veteran of the Armed Forces of the United States. The department may accept donations from private sources in order to reduce the application and renewal fees.

[2017, c. 452, §10 (AMD) .]

4. Enforcement and compliance. The department shall adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A regarding enforcement and compliance of authorized conduct under this chapter, including rules governing:

A. Minimum oversight requirements for dispensaries and registered caregivers and the one permitted additional location at which a dispensary cultivates marijuana plants for medical use by qualifying patients; and [2017, c. 452, §10 (NEW) .]

B. Minimum security requirements for registered caregivers operating retail stores pursuant to section 242-A, subsection 2, paragraph P and registered dispensaries and any additional location at which a dispensary cultivates marijuana plants for medical use by qualifying patients. [2017, c. 452, §10 (NEW) .]

[2017, c. 452, §10 (NEW) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§26, 27 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §§21, 22 (AMD). 2013, c. 394, §1 (AMD). 2017, c. 409, Pt. E, §§5, 6 (AMD). 2017, c. 452, §10 (AMD).

§2425. REGISTRY IDENTIFICATION CARDS

(CONFLICT)

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Application for patient registry identification card; qualifications.

[2017, c. 452, §11 (RP) .]

1-A. (CONFLICT: Text as amended by PL 2017, c. 447, §16) Criminal history record check. An applicant for a registry identification card who is a primary caregiver, an employee of a primary caregiver or a person authorized to engage in marijuana extraction under section 2423-F, subsection 3 or who is a principal officer, board member or employee of a registered dispensary, marijuana testing facility or manufacturing facility must undergo a criminal history record check annually.

[2017, c. 447, §16 (AMD) .]

1-A. (CONFLICT: Text as repealed by PL 2017, c. 452, §11) Criminal history record check.

[2017, c. 452, §11 (RP) .]

2. Issuing patient registry identification card to minor child.

[2017, c. 452, §11 (RP) .]

3. Department approval or denial.

[2017, c. 452, §11 (RP) .]

3-A. Department revocation.

[2017, c. 452, §11 (RP) .]

4. Primary caregiver registry identification card.

[2017, c. 452, §11 (RP) .]

4-A. (CONFLICT: Text as amended by PL 2017, c. 447, §17) Marijuana testing facility identification card. The department shall issue registry identification cards to principal officers, board members and employees of a marijuana testing facility within 5 business days of approving an application or renewal under this section. The department may not issue a registry identification card to a principal officer, board member or employee of a marijuana testing facility who has been convicted of a disqualifying drug offense. Registry identification cards expire one year after the date of issuance. Registry identification cards must contain:

A. The name of the cardholder; [2015, c. 475, §20 (NEW) .]

B. The date of issuance and expiration date of the registry identification card; and [2015, c. 475, §20 (NEW) .]

C. A random identification number that is unique to the cardholder. [2015, c. 475, §20 (NEW) .]

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

[2017, c. 447, §17 (AMD) .]

4-A. (CONFLICT: Text as repealed by PL 2017, c. 452, §11) Marijuana testing facility identification card.

[2017, c. 452, §11 (RP) .]

5. Registry identification card issuance.

[2017, c. 452, §11 (RP) .]

6. Notification of changes in status or loss of card.

[2017, c. 452, §11 (RP) .]

7. Possession of certain documents; application for registry identification card.

[2017, c. 452, §11 (RP) .]

8. Confidentiality.

[2017, c. 452, §11 (RP) .]

9. Revocation of registry identification card.

[2017, c. 452, §11 (RP) .]

9-A. Registration requirement.

[2017, c. 452, §11 (RP) .]

10. Annual report.

[2013, c. 516, §14 (AMD); 2017, c. 452, §11 (RP) .]

11. Valid identification.

[2017, c. 452, §11 (RP) .]

12. Registration and related fees.

A. [2017, c. 452, §11 (RP) .]

C. [2017, c. 452, §11 (RP) .]

D. [2017, c. 452, §11 (RP) .]

E. [2017, c. 452, §11 (RP) .]

F. [2017, c. 452, §11 (RP) .]

G. [2017, c. 452, §11 (RP) .]

H. (CONFLICT: Text as enacted by PL 2017, c. 447, §18) (CONFLICT: Subsection 12 was repealed by PL 2017, c. 452, §11) There is an annual fee to register a tier 1 manufacturing facility of not less than \$50 and not more than \$150. [2017, c. 447, §18 (NEW) .]

I. (CONFLICT: Text as enacted by PL 2017, c. 447, §18) (CONFLICT: Subsection 12 was repealed by PL 2017, c. 452, §11) There is an annual fee to register a tier 2 manufacturing facility of not less than \$150 and not more than \$250. [2017, c. 447, §18 (NEW) .]

J. (CONFLICT: Text as enacted by PL 2017, c. 447, §18) (CONFLICT: Subsection 12 was repealed by PL 2017, c. 452, §11) There is an annual fee to register to engage in marijuana extraction under section 2423-F, subsection 3 of not less than \$250 and not more than \$350. [2017, c. 447, §18 (NEW) .]

[2017, c. 447, §18 (AMD); 2017, c. 452, §11 (RP) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§28-36 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 383, §§2-4 (AMD). 2011, c. 407, Pt. B, §§23-29 (AMD). 2011, c. 691, Pt. A, §§21, 22 (AMD). RR 2013, c. 2, §33 (COR). 2013, c. 394, §§2-6 (AMD). 2013, c. 396, §§9-11 (AMD). 2013, c. 516, §§10-14 (AMD). 2013, c. 595, Pt. J, §1 (AMD). 2013, c. 595, Pt. J, §4 (AFF). 2015, c. 475, §§19-21 (AMD). RR 2017, c. 1, §13 (COR). 2017, c. 409, Pt. E, §§7, 8 (AMD). 2017, c. 447, §§16-18 (AMD). 2017, c. 452, §11 (RP) .

§2425-A. REGISTRY IDENTIFICATION CARDS AND REGISTRATION CERTIFICATES

This section governs registry identification cards and registration certificates, except that registration of manufacturing facilities and persons authorized to engage in marijuana extraction is governed by section 2423-F and registration of marijuana testing facilities is governed by section 2423-A, subsection 10.

[2017, c. 452, §12 (NEW) .]

1. Voluntary registration. Registration under this section is voluntary for a qualifying patient, for a visiting qualifying patient and for a caregiver who is operating under section 2423-A, subsection 3, paragraph C. If a qualifying patient or visiting qualifying patient or a caregiver who is operating under section 2423-A, subsection 3, paragraph C does not register with the department, the patient's or caregiver's ability to engage in authorized conduct in accordance with this chapter is not affected.

[2017, c. 452, §12 (NEW) .]

2. Required registration. A caregiver, other than a caregiver operating under section 2423-A, subsection 3, paragraph C, and an officer or director or assistant of a dispensary or a caregiver, other than a caregiver operating under section 2423-A, subsection 3, paragraph C, shall obtain a registry identification card in accordance with subsections 3, 4 and 5. A long-term care facility designated by a qualifying patient pursuant to section 2423-A, subsection 1, paragraph F-1, subparagraph (2) and a dispensary shall obtain a registration certificate in accordance with subsections 6, 7 and 8.

[2017, c. 452, §12 (NEW) .]

3. Application for registry identification card; qualifications. The department shall register and issue a registry identification card to an applicant who submits a complete application that meets the requirements of this subsection.

The department shall conduct a criminal history record check for any applicant for a registry identification card. Except as provided in subsection 3-A, the department may not issue a registry identification card to an applicant who is not permitted under this chapter to have a disqualifying drug offense.

An application must include, as applicable:

A. The annual fee required pursuant to subsection 10; and [2017, c. 452, §12 (NEW) .]

B. A statement that the requirements of section 2423-B have been met if the qualifying patient applying for the registry identification card has not attained 18 years of age and the qualifying patient's parent, guardian or person having legal custody of the patient consents in writing to:

- (1) The qualifying patient's medical use of marijuana;
- (2) Serving as one of the qualifying patient's caregivers; and
- (3) Controlling the acquisition of the marijuana plants or harvested marijuana and the dosage and the frequency of the medical use of marijuana by the qualifying patient. [2017, c. 452, §12 (NEW) .]

[2017, c. 452, §12 (NEW) .]

3-A. Criminal history record check for caregivers administering medical marijuana on school grounds. The department shall request a criminal history record check for a caregiver designated under section 2423-A, subsection 1, paragraph F-1, subparagraph (4), except for a caregiver who is a parent, a legal guardian or a person having legal custody of the qualifying patient. The department may not issue a registry identification card to an applicant who is not permitted to have a disqualifying drug offense or who would be denied an approval, credential, certification, authorization or renewal under Title 20-A, section 6103 or 13011 based on that criminal history record check.

The criminal history record check requested under this subsection must include criminal history record information obtained from the Maine Criminal Justice Information System established in Title 16, section 631 and the Federal Bureau of Investigation. The following provisions apply.

A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8. [2017, c. 452, §12 (NEW) .]

B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information. [2017, c. 452, §12 (NEW) .]

C. A person subject to a criminal history record check under this section shall submit to having fingerprints taken. The State Police, upon payment of the fee, shall take or cause to be taken the person's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety. [2017, c. 452, §12 (NEW) .]

D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709. [2017, c. 452, §12 (NEW) .]

E. State and federal criminal history record information may be used by the department for the purpose of screening a child care provider or child care staff member in accordance with this chapter. [2017, c. 452, §12 (NEW) .]

F. Information obtained pursuant to this subsection is confidential. The results of criminal history record checks received by the department are for official use only and may not be disseminated to any other person or entity. [2017, c. 452, §12 (NEW) .]

G. If a person is no longer subject to this chapter that person may request in writing that the State Bureau of Identification remove the person's fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the person's fingerprints from the fingerprint file and provide written confirmation of that removal. [2017, c. 452, §12 (NEW) .]

The department, with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 452, §12 (NEW) .]

4. Issuance or denial of registry identification cards. The department shall verify the information contained in an application for a registry identification card or for renewal of a card submitted pursuant to subsection 3 and shall approve or deny an application for a card or for renewal of a card in accordance with this subsection within 30 days of receiving it.

A. Within 5 business days of approving a completed application, the department shall issue a registry identification card to the applicant. [2017, c. 452, §12 (NEW) .]

B. The department may deny an application for a card or for renewal of a card only if:

- (1) The applicant did not provide the information required pursuant to subsection 3;
 - (2) The department determines that the applicant does not qualify; or
 - (3) The department determines that the information provided by the applicant was falsified.
- [2017, c. 452, §12 (NEW) .]

C. The department shall notify the applicant and, if the applicant is an officer or director or assistant of a registered dispensary, the registered dispensary, in writing of the reason for denying the registry identification card. [2017, c. 452, §12 (NEW) .]

An applicant whose application is denied pursuant to this subsection may request an administrative hearing in accordance with Title 5, chapter 375, subchapter 4.

If the department fails to issue or deny a valid registry identification card in response to a valid application for a card or for renewal of a card submitted pursuant to subsection 3 within 45 days of its submission, the registry identification card is deemed granted and a copy of the application for a registry identification card or for renewal of the card is deemed a valid registry identification card.

[2017, c. 452, §12 (NEW) .]

5. Requirements for issuance of registry identification cards. The following provisions apply to the issuance of registry identification cards.

A. A registry identification card expires one year after the date of issuance. The card must contain:

- (1) The name of the cardholder;
- (2) The date of issuance and expiration date;
- (3) A random identification number that is unique to the cardholder; and
- (4) A clear designation showing whether the cardholder is allowed under this chapter to cultivate marijuana plants. [2017, c. 452, §12 (NEW) .]

B. If a caregiver is organized as a legal business entity pursuant to section 2423-A, subsection 2, paragraph Q, the caregiver may obtain a registry identification card in the name of the business entity if the caregiver submits evidence of the business entity's registration with the Secretary of State and evidence that the business entity is in good standing with the Secretary of State. [2017, c. 452, §12 (NEW) .]

C. Registry identification cards issued to an officer or director or assistant of a registered dispensary must also contain:

- (1) The legal name of the registered dispensary with which the officer or director or assistant is affiliated;
- (2) The address and date of birth of the officer or director or assistant; and
- (3) A photograph of the officer or director or assistant, if required by the department. [2017, c. 452, §12 (NEW) .]

D. The registry identification card of an officer or director or assistant of a registered dispensary expires 10 days after notification is given to the department by the registered dispensary that the person has ceased to work at the dispensary. [2017, c. 452, §12 (NEW) .]

[2017, c. 452, §12 (NEW) .]

6. Application for registration certificate; qualifications. The department shall register and issue a registration certificate to an applicant who submits a complete application that meets the requirements of this subsection. An application must include, as applicable:

A. The annual fee required pursuant to subsection 10; [2017, c. 452, §12 (NEW) .]

B. Evidence of the applicant's registration with the Secretary of State and evidence that the applicant is in good standing with the Secretary of State; and [2017, c. 452, §12 (NEW) .]

C. The name, address and date of birth of each officer or director of the applicant. [2017, c. 452, §12 (NEW) .]

[2017, c. 452, §12 (NEW) .]

7. Issuance or denial of registration certificate. The department shall verify the information contained in an application for a registration certificate or for renewal of a certificate submitted pursuant to subsection 6 and shall approve or deny an application for a certificate or for renewal of a certificate in accordance with this subsection within 30 days of receiving it.

A. Within 10 days of approving a completed application, the department shall issue a registration certificate to the applicant. [2017, c. 452, §12 (NEW) .]

B. The department may deny an application for a certificate or for renewal of a certificate only if:

- (1) The applicant did not provide the information required pursuant to subsection 6;
 - (2) The department determines that the applicant does not qualify; or
 - (3) The department determines that the information provided by the applicant was falsified.
- [2017, c. 452, §12 (NEW) .]

C. The department shall notify the applicant in writing of the reason for denying the registration certificate. [2017, c. 452, §12 (NEW) .]

An applicant whose application is denied pursuant to this subsection may request an administrative hearing in accordance with Title 5, chapter 375, subchapter 4.

If the department fails to issue or deny a registration certificate in response to a valid application for a certificate or for renewal of a certificate submitted pursuant to subsection 6 within 45 days of its submission, the registration certificate is deemed granted and a copy of the application for a registration certificate or for renewal of the certificate is deemed a valid registration certificate.

[2017, c. 452, §12 (NEW) .]

8. Requirements for issuance of registration certificates. A registration certificate expires one year after the date of issuance. The certificate must contain:

- A. The name of the certificate holder; [2017, c. 452, §12 (NEW) .]
- B. The date of issuance and expiration date of the registration certificate; [2017, c. 452, §12 (NEW) .]
- C. A random identification number that is unique to the certificate holder; [2017, c. 452, §12 (NEW) .]
- D. The physical address of the certificate holder and, if the certificate holder is a dispensary, the physical address of one additional location, if any, where marijuana will be cultivated; and [2017, c. 452, §12 (NEW) .]
- E. A clear designation showing whether the certificate holder is allowed under this chapter to cultivate marijuana plants. [2017, c. 452, §12 (NEW) .]

[2017, c. 452, §12 (NEW) .]

9. Drug testing. The department may not require an assistant of a caregiver, dispensary, manufacturing facility or marijuana testing facility who is an applicant for a registry identification card to submit to a drug test as a condition of receiving a registry identification card. This subsection does not prevent a caregiver, dispensary, manufacturing facility or marijuana testing facility from requiring drug testing of its assistants as a condition of employment.

[2017, c. 452, §12 (NEW) .]

10. Fees. The department shall adopt rules to establish fees in accordance with this subsection. The fees must be credited to the Medical Use of Marijuana Fund pursuant to section 2430. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

- A. There is no annual registration fee for a qualifying patient or visiting qualifying patient or a caregiver who is not required to register pursuant to section 2423-A, subsection 3, paragraph C. There is no annual registration fee for a caregiver who does not cultivate marijuana plants for a qualifying patient. [2017, c. 452, §12 (NEW) .]

B. There is an annual registration fee for a caregiver who cultivates marijuana plants on behalf of a qualifying patient pursuant to section 2423-A, subsection 2, paragraph B. The fee may not be less than \$50 or more than \$240 for each group of up to 6 mature marijuana plants cultivated by the caregiver. The caregiver shall notify the department of the number of marijuana plants the caregiver cultivates. [2017, c. 452, §12 (NEW).]

C. There is an annual registration fee for a dispensary, which may not be less than \$5,000 or more than \$12,000. There is a fee to change the location of a registered dispensary or the location at which a registered dispensary cultivates marijuana plants, which may not be less than \$3,000 or more than \$4,000. [2017, c. 452, §12 (NEW).]

D. There is an annual registration fee for a tier 1 manufacturing facility, which may not be less than \$50 or more than \$150. [2017, c. 452, §12 (NEW).]

E. There is an annual registration fee for a tier 2 manufacturing facility, which may not be less than \$150 or more than \$250. [2017, c. 452, §12 (NEW).]

F. There is an annual registration fee to engage in marijuana extraction under section 2423-F, subsection 3, which may not be less than \$250 or more than \$350. [2017, c. 452, §12 (NEW).]

G. There is an annual registration fee for a marijuana testing facility, which may not be less than \$250 or more than \$1,000, except that there is no fee if the testing facility is licensed in accordance with Title 28-B, chapter 1. [2017, c. 452, §12 (NEW).]

H. There is an annual registration fee for an officer or director or assistant of a registered caregiver or registered dispensary, which may not be less than \$20 or more than \$50. [2017, c. 452, §12 (NEW).]

I. There is a fee to replace a registry identification card that has been lost, stolen or destroyed or a card that contains information that is no longer accurate, which may not be less than \$10 or more than \$20. Replacement of a registry identification card does not extend the expiration date. [2017, c. 452, §12 (NEW).]

J. There is an annual fee for a criminal history record check for a caregiver or an officer or director or assistant of a registered dispensary, marijuana testing facility or manufacturing facility, which may not be less than \$31 or more than \$60. The fee must be paid by the caregiver or by the registered dispensary, marijuana testing facility or manufacturing facility for an officer or director or assistant of the registered dispensary, marijuana testing facility or manufacturing facility. [2017, c. 452, §12 (NEW).]

[2017, c. 452, §12 (NEW) .]

11. Notification of change in status or loss of registry identification card or registration certificate.

This subsection governs notification of a change in status or the loss of a registry identification card or registration certificate.

A. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department within 10 days of losing the card and submit the fee required by subsection 10, paragraph I. Within 5 days after such notification, the department shall issue a replacement registry identification card. [2017, c. 452, §12 (NEW).]

B. If the information appearing on the cardholder's registry identification card is inaccurate or changes, the cardholder shall notify the department of the inaccuracy or change and submit the fee required by subsection 10, paragraph I. Within 5 days after such notification, the department shall issue a replacement registry identification card. A cardholder who fails to notify the department as required under this paragraph commits a civil violation for which a fine of not more than \$150 may be adjudged. [2017, c. 452, §12 (NEW).]

C. A registered dispensary shall notify the department in writing of the name, address and date of birth of an officer or director or assistant who ceases to work at the dispensary or marijuana testing facility and of any new officer or director or assistant before the officer or director or assistant begins working at the dispensary or marijuana testing facility. [2017, c. 452, §12 (NEW).]

D. A registered dispensary shall notify the department in writing if the dispensary changes the physical location of the dispensary or the location at which the dispensary cultivates marijuana plants. [2017, c. 452, §12 (NEW).]

[2017, c. 452, §12 (NEW) .]

12. Confidentiality. This subsection governs confidentiality.

A. Applications and supporting information submitted by qualifying patients and registered patients under this chapter, including information regarding their caregivers and medical providers, are confidential. [2017, c. 452, §12 (NEW).]

B. Applications and supporting information submitted by caregivers and medical providers operating in compliance with this chapter are confidential. [2017, c. 452, §12 (NEW).]

C. The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list are confidential, exempt from the freedom of access laws, Title 1, chapter 13, and not subject to disclosure except as provided in this subsection and to authorized employees of the department as necessary to perform official duties of the department. [2017, c. 452, §12 (NEW).]

D. The department shall verify to law enforcement personnel whether a registry identification card is valid and whether the conduct is authorized without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card. [2017, c. 452, §12 (NEW) .]

E. Upon request of a code enforcement officer or, if a municipality does not employ a code enforcement officer, another municipal officer, the department shall verify whether a registry identification card is valid and whether the conduct is authorized without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card. The department may disclose the location at which the conduct is authorized if necessary to verify the registry identification card to the code enforcement officer or other municipal officer. The department shall provide this information within 2 business days of the request. The code enforcement officer or other municipal officer shall keep the information received under this paragraph confidential except as necessary to verify whether the registry identification card is valid and whether the conduct is authorized. [2017, c. 452, §12 (NEW) .]

F. Applications, supporting information and other information regarding a registered dispensary are not confidential, except that information that is contained within dispensary information that identifies a qualifying patient, a registered patient, a registered patient's medical provider or a caregiver of a qualifying patient or registered patient is confidential. [2017, c. 452, §12 (NEW).]

G. Records maintained by the department pursuant to this chapter that identify applicants for a registry identification card, registered patients, registered caregivers and registered patients' medical providers are confidential and may not be disclosed, except as provided in this subsection and as follows:

- (1) To department employees who are responsible for carrying out this chapter;
- (2) Pursuant to court order or subpoena issued by a court;
- (3) With written permission of the registered patient or the patient's guardian, if the patient is under guardianship, or a parent, if the patient has not attained 18 years of age;
- (4) As permitted or required for the disclosure of health care information pursuant to section 1711-C;

(5) To a law enforcement official for verification purposes. The records may not be disclosed further than necessary to achieve the limited goals of a specific investigation; and

(6) To a registered patient's treating medical provider and to a registered patient's registered caregiver for the purpose of carrying out this chapter. [2017, c. 452, §12 (NEW).]

H. This subsection does not prohibit a medical provider from notifying the department if the medical provider acquires information indicating that a registered patient or qualifying patient is no longer eligible to use marijuana for medical purposes or that a registered patient or qualifying patient falsified information that was the basis of the medical provider's certification of eligibility for use. [2017, c. 452, §12 (NEW).]

I. The department may disclose to an agency of State Government designated by the commissioner and employees of that agency any information necessary to produce registry identification cards or manage the identification card program and may disclose data for statistical or research purposes in such a manner that individuals cannot be identified. [2017, c. 452, §12 (NEW).]

J. A hearing concerning the suspension or revocation of a registry identification card under section 2430-E is confidential. [2017, c. 452, §12 (NEW).]

K. Except as otherwise provided in this subsection, a person who knowingly violates the confidentiality of information protected under this chapter commits a civil violation for which a fine of up to \$1,000 may be imposed. This paragraph does not apply to a medical provider or staff of a long-term care facility or any other person directly associated with a medical provider or long-term care facility that provides services to a registered patient. [2017, c. 452, §12 (NEW).]

L. Notwithstanding any provision of this subsection to the contrary, the department shall comply with Title 36, section 175. Information provided by the department pursuant to this paragraph may be used by the Department of Administrative and Financial Services, Bureau of Revenue Services only for the administration and enforcement of taxes imposed under Title 36. [2017, c. 452, §12 (NEW).]

[2017, c. 452, §12 (NEW) .]

13. Reporting requirements. This subsection governs the reporting of patient access information by registered caregivers and dispensaries and the department's annual report to the Legislature.

A. A registered caregiver or a dispensary shall submit annually a report of the number of qualifying patients and visiting qualifying patients assisted by the caregiver or dispensary. A report may not directly or indirectly disclose patient identity. The department shall adopt rules to implement this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2017, c. 452, §12 (NEW).]

B. The department shall submit to the joint standing committee of the Legislature having jurisdiction over health and human services matters an annual report by April 1st each year that does not disclose any identifying information about cardholders or medical providers, but that does contain, at a minimum:

- (1) The number of applications and renewals filed for registry identification cards and registration certificates;
- (2) The number of qualifying patients and registered caregivers approved in each county;
- (3) The number of registry identification cards suspended or revoked;
- (4) The number of medical providers providing written certifications for qualifying patients;
- (5) The number of registered dispensaries, manufacturing facilities and marijuana testing facilities approved in each county;
- (6) The number of officers or directors or assistants of registered caregivers, registered dispensaries, manufacturing facilities and marijuana testing facilities; and

(7) The revenue and expenses of the Medical Use of Marijuana Fund established in section 2430. [2017, c. 452, §12 (NEW) .]

[2017, c. 452, §12 (NEW) .]

SECTION HISTORY

2017, c. 452, §12 (NEW) .

§2426. SCOPE

1. Limitations. This chapter does not permit any person to:

A. Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice or would otherwise violate any professional standard; [2009, c. 631, §37 (AMD); 2009, c. 631, §51 (AFF) .]

B. Except as provided in subsection 1-A, possess marijuana or otherwise engage in the medical use of marijuana:

- (1) In a school bus;
- (2) On the grounds of any preschool or primary or secondary school; or
- (3) In any correctional facility; [2015, c. 369, §2 (AMD) .]

C. Smoke marijuana:

- (1) On any form of public transportation; or
- (2) In any public place; [2009, c. 1, §5 (NEW) .]

D. Operate, navigate or be in actual physical control of any motor vehicle, aircraft, motorboat, snowmobile or all-terrain vehicle while under the influence of marijuana; or [2009, c. 631, §38 (AMD); 2009, c. 631, §51 (AFF) .]

E. Use or possess marijuana if that person is not a qualifying patient, caregiver, registered dispensary or other person authorized to use or possess marijuana under this chapter. [2017, c. 452, §13 (AMD) .]

[2017, c. 452, §13 (AMD) .]

1-A. School exceptions. Notwithstanding subsection 1, paragraph B, a caregiver designated pursuant to section 2423-A, subsection 1, paragraph F-1, subparagraph (4) or the parent, legal guardian or person having legal custody of a qualifying patient may, for the benefit of the qualifying patient, possess and administer harvested marijuana in a school bus and on the grounds of the preschool or primary or secondary school in which the qualifying patient is enrolled only if:

A. A medical provider has provided the qualifying patient with a current written certification for the medical use of marijuana under this chapter; [2017, c. 452, §14 (AMD) .]

B. Possession of harvested marijuana is for the purpose of administering marijuana to the qualifying patient; and [2017, c. 452, §14 (AMD) .]

C. The parent, legal guardian or person having legal custody of a qualifying patient enrolled in the preschool or primary or secondary school has notified the school that a caregiver has been designated on behalf of the qualifying patient to possess and administer harvested marijuana to the qualifying patient. [2017, c. 452, §14 (NEW) .]

Harvested marijuana possessed or administered in accordance with this subsection may not be in a form that permits the qualifying patient to engage in smoking. For the purposes of this subsection, "smoking" has the same meaning as in section 1541, subsection 6, except that "smoking" does not include the use of a nebulizer.

[2017, c. 452, §14 (AMD) .]

2. Construction. This chapter may not be construed to require:

A. A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or [2009, c. 1, §5 (NEW) .]

B. An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana. [2009, c. 1, §5 (NEW) .]

[2009, c. 1, §5 (NEW) .]

3. Penalty for fraudulent representation.

[2009, c. 631, §51 (AFF); 2009, c. 631, §39 (RP) .]

3-A. Penalty for fraud.

[2017, c. 452, §15 (RP) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§37-39 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §§30, 31 (AMD). 2015, c. 369, §§2, 3 (AMD). 2017, c. 452, §§13-15 (AMD).

**§2427. AFFIRMATIVE DEFENSE AND DISMISSAL FOR MEDICAL MARIJUANA
(REPEALED)**

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§40, 41 (AMD). 2009, c. 631, §51 (AFF). MRSA T. 22, §2427, sub-§4 (RP).

§2428. REGISTERED DISPENSARIES

(CONFLICT)

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Provisions pertaining to primary caregiver apply to nonprofit dispensary.

[2009, c. 631, §51 (AFF); 2009, c. 631, §42 (RP) .]

1-A. Provisions pertaining to registered dispensary. For the purpose of assisting a qualifying patient, a registered dispensary may in accordance with rules adopted by the department:

A. Dispense up to 2 1/2 ounces of harvested marijuana to the qualifying patient in one transaction, except that a dispensary may not dispense more than 2 1/2 ounces of harvested marijuana to a visiting qualifying patient during a 15-day period; [2017, c. 452, §16 (AMD) .]

B. Cultivate marijuana plants and possess all harvested marijuana from those marijuana plants; [2017, c. 452, §16 (AMD) .]

C. Receive reasonable monetary compensation for costs associated with assisting or for cultivating marijuana plants for the qualifying patient; [2017, c. 452, §16 (AMD) .]

D. (CONFLICT: Text as amended by PL 2017, c. 447, §19) Assist any patient who designated the dispensary to cultivate marijuana with the medical use or administration of marijuana; [2017, c. 447, §19 (AMD).]

D. (CONFLICT: Text as amended by PL 2017, c. 452, §16) Assist the qualifying patient with the medical use or administration of marijuana; [2017, c. 452, §16 (AMD).]

E. (CONFLICT: Text as amended by PL 2017, c. 447, §20) Obtain prepared marijuana from a primary caregiver under section 2423-A, subsection 2, paragraph H or from another registered dispensary for the purposes of addressing an extended inventory supply interruption under subsection 6, paragraph G; [2017, c. 447, §20 (AMD).]

E. (CONFLICT: Text as amended by PL 2017, c. 452, §16) Obtain harvested marijuana from a caregiver under section 2423-A, subsection 2, paragraph K; [2017, c. 452, §16 (AMD).]

F. (CONFLICT: Text as enacted by PL 2017, c. 447, §21) Manufacture marijuana products and marijuana concentrate for medical use, except that a registered dispensary may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; and [2017, c. 447, §21 (NEW).]

F. (CONFLICT: Text as enacted by PL 2017, c. 452, §16) Except as provided in section 2426:

- (1) Transfer marijuana plants and harvested marijuana to a qualifying patient and to a caregiver on behalf of a qualifying patient in a retail sale for reasonable compensation;
- (2) Transfer marijuana plants and harvested marijuana to a qualifying patient, caregiver or dispensary for no remuneration;
- (3) Acquire marijuana plants and harvested marijuana from another dispensary for no remuneration;
- (4) Transfer to and accept from a registered caregiver or another dispensary marijuana plants and harvested marijuana in a wholesale transaction in accordance with this paragraph. A dispensary may transfer in wholesale transactions for reasonable compensation or for no remuneration up to 30% of the mature marijuana plants grown by the dispensary over the course of a calendar year, including any marijuana products or marijuana concentrate manufactured from that 30% of the mature marijuana plants grown by the dispensary. A dispensary may transfer to or accept from registered caregivers and dispensaries in wholesale transactions an unlimited amount of immature marijuana plants and seedlings. A dispensary that acquires mature marijuana plants, marijuana products or marijuana concentrate in a wholesale transaction under this subparagraph may not resell the mature marijuana plants, marijuana products or marijuana concentrate except to a qualifying patient or to a caregiver or dispensary to assist a qualifying patient;
- (5) Transfer harvested marijuana to a manufacturing facility and accept marijuana products and marijuana concentrate from the manufacturing facility that are produced from the harvested marijuana the dispensary provided to the manufacturing facility; and
- (6) Provide samples to a marijuana testing facility for testing and research purposes; [2017, c. 452, §16 (NEW).]

G. (CONFLICT: Text as enacted by PL 2017, c. 447, §21) Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that is produced from the harvested marijuana the registered dispensary provided to the manufacturing facility. [2017, c. 447, §21 (NEW).]

G. (CONFLICT: Text as enacted by PL 2017, c. 452, §16) Conduct marijuana testing at the request of anyone authorized to possess marijuana under this chapter for research and development purposes only; [2017, c. 452, §16 (NEW).]

H. Manufacture marijuana products for medical use, except that a dispensary may not prepare food, as defined in section 2152, subsection 4, unless licensed pursuant to section 2167; [2017, c. 452, §16 (NEW).]

I. Manufacture marijuana concentrate for medical use, except that a dispensary may not produce marijuana concentrate using inherently hazardous substances unless authorized pursuant to section 2423-F, subsection 3; [2017, c. 452, §16 (NEW).]

J. Provide harvested marijuana to a manufacturing facility and obtain marijuana products and marijuana concentrate from the manufacturing facility that is produced from the harvested marijuana the registered dispensary provided to the manufacturing facility; [2017, c. 452, §16 (NEW).]

K. Hire any number of assistants to assist in performing the duties of the dispensary; and [2017, c. 452, §16 (NEW).]

L. Transport marijuana plants and harvested marijuana as necessary to carry out the activities authorized under this section. [2017, c. 452, §16 (NEW).]

[2017, c. 452, §16 (AMD) .]

2. Registration requirements.

[2017, c. 452, §16 (RP) .]

3. Rules.

[2017, c. 452, §16 (RP) .]

4. Expiration.

[2017, c. 452, §16 (RP) .]

5. Inspection.

[2017, c. 452, §16 (RP) .]

6. Registered dispensary requirements. This subsection governs the operations of registered dispensaries.

A. [2017, c. 452, §16 (RP).]

B. A dispensary may not be located within 500 feet of the property line of a preexisting public or private school. [2009, c. 631, §42 (AMD); 2009, c. 631, §51 (AFF).]

C. [2017, c. 452, §16 (RP).]

D. [2017, c. 452, §16 (RP).]

E. A dispensary shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana at the dispensary and the one permitted additional location at which the dispensary cultivates marijuana plants for medical use by qualifying patients. [2017, c. 452, §16 (AMD).]

F. The operating documents of a dispensary must include procedures for the oversight of the dispensary and procedures to ensure accurate record keeping in accordance with section 2430-G. [2017, c. 452, §16 (AMD).]

G. [2017, c. 452, §16 (RP).]

H. All officers or directors of a dispensary must be residents of this State. [2017, c. 452, §16 (AMD) .]

I. All cultivation of marijuana plants must take place in a cultivation area unless the marijuana plants are being transported pursuant to subsection 1-A, paragraph L. Access to the cultivation area is limited to a cardholder who is an officer or director or assistant of the dispensary when acting in that cardholder's official capacity, except that an elected official invited by an officer or director or assistant for the

purpose of providing education to the elected official on cultivation by the dispensary, emergency services personnel, an assistant of a marijuana testing facility or a person who needs to gain access to the cultivation area in order to perform repairs or maintenance or to do construction may access the cultivation area to provide professional services while under the direct supervision of a cardholder who is an officer or director or assistant of the dispensary. [2017, c. 452, §16 (AMD).]

J. [2017, c. 452, §16 (RP).]

K. A dispensary shall display the dispensary's registration certificate issued under section 2425-A in a publicly visible location in the dispensary. [2017, c. 452, §16 (AMD).]

L. [2017, c. 452, §16 (RP).]

M. [2017, c. 452, §16 (RP).]

N. [2017, c. 452, §16 (RP).]

[2013, c. 374, §2 (AMD); 2013, c. 501, §2 (AMD); 2017, c. 452, §16 (AMD) .]

7. Maximum amount of marijuana to be dispensed. A dispensary or an officer or director or assistant of a dispensary may not dispense more than 2 1/2 ounces of harvested marijuana in one transaction to a qualifying patient or to a caregiver on behalf of a qualifying patient, except that a dispensary or an officer or director or assistant of a dispensary may not dispense more than 2 1/2 ounces of harvested marijuana to a visiting qualifying patient during a 15-day period.

[2017, c. 452, §16 (AMD) .]

8. Immunity.

[2009, c. 631, §51 (AFF); 2009, c. 631, §42 (RP) .]

8-A. Immunity.

[2017, c. 452, §16 (RP) .]

9. Prohibitions. The prohibitions in this subsection apply to a registered dispensary.

A. [2017, c. 452, §16 (RP).]

B. A dispensary may not dispense, deliver or otherwise transfer marijuana except as provided in this chapter. [2017, c. 452, §16 (AMD).]

C. [2017, c. 452, §16 (RP).]

D. A person who has been convicted of a disqualifying drug offense may not be an officer or director or assistant of a dispensary.

(1) A person who is an officer or director or assistant of a dispensary in violation of this paragraph commits a civil violation for which a fine of not more than \$1,000 may be adjudged.

(2) A person who is an officer or director or assistant of a dispensary in violation of this paragraph and who at the time of the violation has been previously found to have violated this paragraph commits a Class D crime. [2017, c. 452, §16 (AMD).]

E. [2017, c. 452, §16 (RP).]

F. A dispensary may not contract for the cultivation of seeds of a marijuana plant, seedlings or immature marijuana plants, except that a dispensary may engage in wholesale transactions in accordance with subsection 1-A, paragraph F, subparagraph (4). [2017, c. 452, §16 (AMD).]

G. A registered dispensary may not use a pesticide on marijuana plants except a pesticide that is used consistent with federal labeling requirements, is registered with the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control pursuant to Title 7, section 607 and is used consistent with best management practices for pest management approved by the Commissioner of Agriculture, Conservation and Forestry. A registered dispensary may not in the cultivation of marijuana plants use a pesticide unless at least one registered dispensary assistant involved in the application of the pesticide is certified pursuant to section 1471-D and all other registered dispensary assistants who have direct contact with treated plants have completed safety training pursuant to 40 Code of Federal Regulations, Section 170.130. A registered dispensary assistant who is not certified pursuant to section 1471-D and who is involved in the application of the pesticide or handling of the pesticide or equipment must first complete safety training described in 40 Code of Federal Regulations, Section 170.230. [2017, c. 452, §16 (AMD).]

[2017, c. 452, §16 (AMD) .]

10. Local regulation.

[2017, c. 447, §22 (RP); 2017, c. 452, §16 (RP) .]

11. Limitation on number of dispensaries.

[2017, c. 452, §16 (RP) .]

11-A. Limitation on number of dispensaries registered. This subsection governs the limits on the number of dispensary registration certificates that may be issued by the department.

A. In addition to the 8 dispensary registration certificates issued as of April 1, 2018, the department shall issue 6 dispensary registration certificates to applicants that the department determines meet all criteria established in rule. Of the new registration certificates issued after April 1, 2018, the department may not issue more than one additional registration certificate to any dispensary operating in the State on April 1, 2018 or to its successor in interest and the department may not issue more than one dispensary registration certificate to any person that did not hold a dispensary registration certificate as of April 1, 2018. After January 1, 2021, the department may not limit the number of registration certificates it issues to a person to operate as a dispensary. [2017, c. 452, §16 (NEW).]

B. The department shall issue a registration certificate to a dispensary that operated as a nonprofit entity prior to April 1, 2018 if 2/3 of the officers or directors of the entity that is the successor in interest of that nonprofit entity were officers or directors of the nonprofit entity at the time the nonprofit entity ceased existing as a nonprofit entity. The registration certificate of a dispensary operating as a nonprofit entity prior to April 1, 2018 expires upon the cessation of existence of the nonprofit entity unless an entity that is the successor in interest to that nonprofit entity and that meets the requirements of this paragraph is capable of operating under the registration certificate at substantially the same time the nonprofit entity ceases existence. The registration certificate issued to the entity that is the successor in interest to the nonprofit entity under this paragraph expires on the date the registration certificate issued to the nonprofit entity would have expired. [2017, c. 452, §16 (NEW).]

[2017, c. 452, §16 (NEW) .]

12. Labels.

[2017, c. 452, §16 (RP) .]

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §42 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §32 (AMD). RR 2013, c. 1, §41 (COR). 2013, c. 371, §4 (AMD). 2013, c. 374, §2 (AMD). 2013, c. 393, §4 (AMD).

2013, c. 394, §§7, 8 (AMD). 2013, c. 498, §2 (AMD). 2013, c. 501, §2 (AMD). 2013, c. 503, §§2-6 (AMD). 2013, c. 516, §15 (AMD). 2015, c. 475, §§ 22-24 (AMD). 2017, c. 409, Pt. E, §9 (AMD). 2017, c. 447, §§19-22 (AMD). 2017, c. 452, §16 (AMD).

§2429. ENFORCEMENT

(REPEALED)

SECTION HISTORY

IB 2009, c. 1, §5 (NEW). 2009, c. 631, §§43, 44 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. B, §§33, 34 (AMD). 2017, c. 452, §17 (RP).

§2429-A. PACKAGING AND LABELING REQUIREMENTS

1. Packaging requirements. As applicable based on the form of the item sold, harvested marijuana sold in a retail transaction under this chapter must be:

- A. Prepackaged in child-resistant and tamper-evident packaging or placed in child-resistant and tamper-evident packaging with a signifier that the package contains harvested marijuana at the final point of sale to a qualifying patient; [2017, c. 452, §18 (NEW).]
- B. Prepackaged in opaque packaging or an opaque container or placed in opaque packaging or an opaque container with a signifier that the package contains harvested marijuana at the final point of sale to a qualifying patient; [2017, c. 452, §18 (NEW).]
- C. Packaged in a container with an integral measurement component and child-resistant cap if the marijuana product is a multiserving liquid; and [2017, c. 452, §18 (NEW).]
- D. In conformity with all other applicable requirements and restrictions imposed by rule by the department. [2017, c. 452, §18 (NEW).]

Any package required under this subsection that contains edible marijuana products must include a signifier that the package contains harvested marijuana.

[2017, c. 452, §18 (NEW) .]

2. Packaging prohibitions. Harvested marijuana sold in a retail transaction under this chapter may not be:

- A. Labeled or packaged in violation of a federal trademark law or regulation or in a manner that would cause a reasonable consumer confusion as to whether the harvested marijuana was a trademarked product; [2017, c. 452, §18 (NEW).]
- B. Labeled or packaged in a manner that is specifically designed to appeal particularly to a person under 21 years of age; [2017, c. 452, §18 (NEW).]
- C. Labeled or packaged in a manner that obscures identifying information on the label or uses a false or deceptive label; [2017, c. 452, §18 (NEW).]
- D. Sold or offered for sale using a label or packaging that depicts a human, animal or fruit; or [2017, c. 452, §18 (NEW).]
- E. Labeled or packaged in violation of any other labeling or packaging requirement or restriction imposed by rule by the department. [2017, c. 452, §18 (NEW).]

[2017, c. 452, §18 (NEW) .]

3. Labels. If a registered caregiver, dispensary or manufacturing facility affixes a label on the packaging of any harvested marijuana provided to a qualifying patient and that label includes information about contaminants, the cannabinoid profile or potency of the harvested marijuana, the label must be verified by a marijuana testing facility. This subsection does not apply if there is no marijuana testing facility operating in accordance with section 2423-A, subsection 10.

[2017, c. 452, §18 (NEW) .]

4. Educational materials. A person that provides harvested marijuana to a qualifying patient must make educational materials about medical marijuana available to the qualifying patient at the time of the transaction. The department shall develop the minimum content of the educational materials provided under this subsection and make that content available publicly.

[2017, c. 452, §18 (NEW) .]

SECTION HISTORY

2017, c. 452, §18 (NEW) .

§2429-B. SIGNS, ADVERTISING AND MARKETING

1. Prohibitions. Signs, advertising and marketing used by or on behalf of a registered caregiver or dispensary may not:

A. Be misleading, deceptive or false; [2017, c. 452, §18 (NEW) .]

B. Involve mass-market advertising or marketing campaigns that have a high likelihood of reaching persons under 21 years of age or that are specifically designed to appeal particularly to persons under 21 years of age; [2017, c. 452, §18 (NEW) .]

C. Be placed or otherwise used within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality chooses to prohibit the placement or use of signs or advertising by or on behalf of a registered caregiver or dispensary at distances greater than or less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that greater or lesser distance applies; [2017, c. 452, §18 (NEW) .]

D. Violate any other requirement or restriction on signs, advertising and marketing imposed by the department by rule pursuant to subsection 2; or [2017, c. 452, §18 (NEW) .]

E. Market to any person authorized to possess marijuana under this chapter and specifically to any adult use or recreational marijuana market within the same sign, advertisement or marketing material. [2017, c. 452, §18 (NEW) .]

[2017, c. 452, §18 (NEW) .]

2. Rules on signs, advertising and marketing. The department shall adopt rules regarding the placement and use of signs, advertising and marketing by or on behalf of a registered caregiver or dispensary, which may include, but are not limited to:

A. A prohibition on health or physical benefit claims in advertising or marketing, including, but not limited to, health or physical benefit claims on the label or packaging of harvested marijuana; [2017, c. 452, §18 (NEW) .]

B. A prohibition on unsolicited advertising or marketing on the Internet, including, but not limited to, banner advertisements on mass-market websites; [2017, c. 452, §18 (NEW) .]

C. A prohibition on opt-in advertising or marketing that does not permit an easy and permanent opt-out feature; and [2017, c. 452, §18 (NEW) .]

D. A prohibition on advertising or marketing directed toward location-based devices, including, but not limited to, cellular telephones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature. [2017, c. 452, §18 (NEW).]

[2017, c. 452, §18 (NEW) .]

SECTION HISTORY

2017, c. 452, §18 (NEW) .

§2429-C. EDIBLE MARIJUANA PRODUCTS HEALTH AND SAFETY REQUIREMENTS AND RESTRICTIONS

In addition to all other applicable provisions of this chapter, edible marijuana products to be sold or offered for sale in a retail transaction in accordance with this chapter: [2017, c. 452, §18 (NEW) .]

1. Cannabinoid content. Must be manufactured in a manner that results in the cannabinoid content within the product being homogeneous throughout the product or throughout each element of the product that has a cannabinoid content;

[2017, c. 452, §18 (NEW) .]

2. Marijuana content. Must be manufactured in a manner that results in the amount of marijuana concentrate within the product being homogeneous throughout the product or throughout each element of the product that contains marijuana concentrate;

[2017, c. 452, §18 (NEW) .]

3. Shape. May not be manufactured in the distinct shape of a human, animal or fruit;

[2017, c. 452, §18 (NEW) .]

4. Additives. May not contain additives that are:

A. Toxic or harmful to human beings; or [2017, c. 452, §18 (NEW) .]

B. Specifically designed to make the product appeal particularly to a person under 21 years of age; and [2017, c. 452, §18 (NEW) .]

[2017, c. 452, §18 (NEW) .]

5. Addition to trademarked food or drink. May not involve the addition of marijuana to a trademarked food or drink product, except when the trademarked product is used as a component of or ingredient in the edible marijuana product and the edible marijuana product is not advertised or described for sale as containing the trademarked product.

[2017, c. 452, §18 (NEW) .]

SECTION HISTORY

2017, c. 452, §18 (NEW) .

§2429-D. LOCAL REGULATION

Pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate registered caregivers, registered caregiver retail stores operating pursuant to section 2423-A, subsection 2, paragraph P, registered dispensaries, marijuana testing facilities and manufacturing facilities. [2017, c. 452, §18 (NEW).]

A municipality may not: [2017, c. 452, §18 (NEW).]

1. Registered caregivers. Prohibit or limit the number of registered caregivers;

[2017, c. 452, §18 (NEW) .]

2. Stores, dispensaries, testing and manufacturing facilities. Prohibit registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are operating with municipal approval in the municipality prior to the effective date of this section; or

[2017, c. 452, §18 (NEW) .]

3. Municipal authorization needed. Authorize registered caregiver retail stores, registered dispensaries, marijuana testing facilities and manufacturing facilities that are not operating on the effective date of this section to operate in the municipality unless the municipal legislative body, as defined in Title 30-A, section 2001, subsection 9, has voted to adopt or amend an ordinance or approve a warrant article allowing registered caregiver retail stores, registered dispensaries, marijuana testing facilities or manufacturing facilities, as applicable, to operate within the municipality.

[2017, c. 452, §18 (NEW) .]

SECTION HISTORY

2017, c. 452, §18 (NEW)

§2430. MEDICAL USE OF MARIJUANA FUND ESTABLISHED

1. Fund established. The Medical Use of Marijuana Fund, referred to in this section as "the fund," is established as an Other Special Revenue Funds account in the department for the purposes specified in this section.

[2017, c. 409, Pt. E, §10 (AMD) .]

2. Sources of fund. The State Controller shall credit to the fund:

A. All money received as a result of applications and reapplications for registration as a qualifying patient, caregiver, dispensary, manufacturing facility and marijuana testing facility; [2017, c. 452, §19 (AMD) .]

B. All money received as a result of applications and reapplications for registry identification cards for registered patients, caregivers, dispensaries and officers or directors or assistants of registered caregivers, dispensaries, manufacturing facilities and marijuana testing facilities; [2017, c. 452, §20 (AMD) .]

C. All penalties and fines assessed for violations of this chapter; [2009, c. 631, §45 (NEW); 2009, c. 631, §51 (AFF) .]

D. All money from any other source, whether public or private, designated for deposit into or credited to the fund; and [2009, c. 631, §45 (NEW); 2009, c. 631, §51 (AFF) .]

E. Interest earned or other investment income on balances in the fund. [2009, c. 631, §45 (NEW); 2009, c. 631, §51 (AFF).]

[2017, c. 452, §§19, 20 (AMD) .]

3. Uses of the fund. The fund may be used for expenses of the department to administer this chapter or for research in accordance with subsection 5, as allocated by the Legislature. To the extent that funds remain in the fund after the expenses of the department to administer this chapter and for research in accordance with subsection 5, any remaining funds must be used to fund:

A. The cost of the tax deductions provided pursuant to Title 36, section 5122, subsection 2, paragraph PP and Title 36, section 5200-A, subsection 2, paragraph BB. By June 1st annually, the State Tax Assessor shall determine the cost of those deductions during the prior calendar year and report that amount to the State Controller, who shall transfer that amount from the remaining funds in the fund to the General Fund; and [2017, c. 452, §21 (NEW) .]

B. The cost of the position in the Department of Administrative and Financial Services, Bureau of Revenue Services to administer the tax deductions provided pursuant to Title 36, section 5122, subsection 2, paragraph PP and Title 36, section 5200-A, subsection 2, paragraph BB. By June 1st annually, the Commissioner of Administrative and Financial Services shall determine the cost of the position in the bureau to administer those deductions during the prior calendar year and report that amount to the State Controller, who shall transfer that amount from the remaining funds in the fund to the General Fund. [2017, c. 452, §21 (NEW) .]

[2017, c. 452, §21 (AMD) .]

4. Review of fund balance. Beginning January 2018 and every 2 years thereafter, the department shall review the balance in the fund. If the balance in the fund exceeds \$400,000, the department shall reduce the fees established under section 2425-A, subsection 10 for a 2-year period beginning with the calendar year following the review.

[2017, c. 452, §22 (NEW) .]

5. Medical marijuana research grant program established. The medical marijuana research grant program, referred to in this subsection as "the program," is established within the department to provide grant money to support objective scientific research, including observational and clinical trials and existing research, on the efficacy of marijuana as part of medical treatment and the health effects of marijuana used as part of medical treatment. The program must be funded from the fund. The department shall adopt rules necessary to implement the program, including, but not limited to, required qualifications of persons conducting the research; determining the scientific merit and objectivity of a research proposal; criteria for determining the amount of program funds distributed; criteria for determining the duration of the research; procedures for soliciting research participants, including outreach to patients, and for obtaining the informed consent of participants; and reporting requirements for the results of the research and evaluation of the research results. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 452, §22 (NEW) .]

SECTION HISTORY

2009, c. 631, §45 (NEW). 2009, c. 631, §51 (AFF). 2015, c. 475, §25 (AMD). 2017, c. 409, Pt. E, §10 (AMD). 2017, c. 452, §§19-22 (AMD).

§2430-A. COMPLIANCE **(REPEALED)**

SECTION HISTORY

2009, c. 631, §46 (NEW). 2009, c. 631, §51 (AFF). 2013, c. 516, §16 (RPR). 2015, c. 475, §26 (AMD). 2017, c. 452, §23 (RP).

§2430-B. ADMISSIBILITY OF RECORDS

A certificate, signed by the commissioner or the commissioner's designee, stating what the records of the department show on any given matter related to this chapter is admissible in evidence in all courts of this State to prove what the records of the department are on that matter. Upon testimony of a law enforcement officer that the certificate and records were obtained by that law enforcement officer from the department, the court shall admit that certificate and those records as evidence without any further foundation or testimony. If the department stores records in a computer or similar device, a printout or other output readable by sight of information stored in the department's computer or similar device, certified by the commissioner or the commissioner's designee as an accurate reflection of the stored information, is admissible in evidence to prove the content of the records. [2011, c. 383, §5 (NEW); 2011, c. 407, Pt. B, §35 (NEW) .]

SECTION HISTORY

2011, c. 383, §5 (NEW). 2011, c. 407, Pt. B, §35 (NEW) .

§2430-C. PROTECTIONS FOR AUTHORIZED ACTIVITY

1. Rights of persons or entities acting pursuant to this chapter. A person whose conduct is authorized under this chapter may not be denied any right or privilege or be subjected to arrest, prosecution, penalty or disciplinary action, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for lawfully engaging in conduct involving the medical use of marijuana authorized under this chapter.

[2017, c. 452, §24 (NEW) .]

2. Legal protection for hospitals and long-term care facilities. The immunity provisions in this subsection apply to a hospital licensed under chapter 405 and an officer or director, employee or agent of the hospital and a long-term care facility and an officer or director, employee or agent of the long-term care facility. Any immunity provision in this chapter in conflict with this subsection does not apply to a hospital or long-term care facility. The legal protection for hospitals and long-term care facilities applies in accordance with the following.

A. If the use of a form of harvested marijuana that is not smoked, including but not limited to edible marijuana products and tinctures and salves of marijuana, by an admitted patient who has been certified under section 2423-B occurs in a hospital, that hospital is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter. [2017, c. 452, §24 (NEW) .]

B. If the use of a form of harvested marijuana consistent with a long-term facility's policy by an admitted patient who has been certified under section 2423-B occurs in the long-term care facility, that long-term care facility is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter. [2017, c. 452, §24 (NEW) .]

C. An officer or director, employee or agent of a hospital or long-term care facility where the use of a form of harvested marijuana that is not smoked or vaporized, including but not limited to edible marijuana products and tinctures and salves of marijuana, by an admitted patient who has been certified under section 2423-B occurs is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board or entity, and may not be denied any license, registration, right or privilege solely because the admitted patient lawfully engages in conduct involving the medical use of marijuana authorized under this chapter. [2017, c. 452, §24 (NEW) .]

[2017, c. 452, §24 (NEW) .]

3. School, employer or landlord may not discriminate. A school, employer or landlord may not refuse to enroll or employ or lease to or otherwise penalize a person solely for that person's status as a qualifying patient or a caregiver unless failing to do so would put the school, employer or landlord in violation of federal law or cause it to lose a federal contract or funding. This subsection does not prohibit a restriction on the administration or cultivation of marijuana on premises when that administration or cultivation would be inconsistent with the general use of the premises. A landlord or business owner may prohibit the smoking of marijuana for medical purposes on the premises of the landlord or business if the landlord or business owner prohibits all smoking on the premises and posts notice to that effect on the premises.

[2017, c. 452, §24 (NEW) .]

4. Person may not be denied parental rights and responsibilities or contact with a minor child. A person may not be denied parental rights and responsibilities with respect to or contact with a minor child as a result of acting in accordance with this chapter, unless the person's conduct is contrary to the best interests of the minor child as set out in Title 19-A, section 1653, subsection 3.

[2017, c. 452, §24 (NEW) .]

5. Receiving an anatomical gift. In reviewing a qualifying patient's suitability for receiving an anatomical gift, a transplant evaluator shall treat the qualifying patient's medical use of marijuana as the equivalent of the authorized use of any other medications used at the direction of a medical provider. A transplant evaluator may determine a qualifying patient to be unsuitable to receive an anatomical gift if the qualifying patient does not limit the qualifying patient's medical use of marijuana to the use of forms of harvested marijuana that are not smoked or vaporized, including but not limited to edible marijuana and tinctures and salves of marijuana. A transplant evaluator may require medical marijuana used by a qualifying patient to be tested for fungal contamination by a marijuana testing facility. For purposes of this subsection, "transplant evaluator" means a person responsible for determining another person's suitability for receiving an anatomical gift. For the purposes of this subsection, "anatomical gift" has the same meaning as in section 2942, subsection 2.

[2017, c. 452, §24 (NEW) .]

6. Prohibition on seizure and retention. Except when necessary for an ongoing criminal or civil investigation, a law enforcement officer may not seize marijuana that is in the possession of a qualifying patient, caregiver, marijuana testing facility, manufacturing facility or registered dispensary as authorized by this chapter. A law enforcement officer in possession of marijuana in violation of this subsection shall return the marijuana within 7 days after receiving a written request for return by the owner of the marijuana. Notwithstanding the provisions of Title 14, chapter 741, if the law enforcement officer fails to return marijuana possessed in violation of this subsection within 7 days of receiving a written request for return of the marijuana under this subsection, the owner of the marijuana may file a claim in the District Court in the district where the owner lives or where the law enforcement officer is employed.

[2017, c. 452, §24 (NEW) .]

7. Requirements for protection. To receive protection under this section for conduct authorized under this chapter, a person must:

A. If the person is a qualifying patient or visiting qualifying patient, present upon request of a law enforcement officer the original written certification for the patient and the patient's government-issued identification that includes a photo and proof of address; or [2017, c. 452, §24 (NEW) .]

B. If the person is a caregiver, present upon request of a law enforcement officer the original written document designating the person as a caregiver by the qualifying patient under section 2423-A, subsection 1, paragraph F-1 and the caregiver's government-issued identification that includes a photo and proof of address. [2017, c. 452, §24 (NEW) .]

[2017, c. 452, §24 (NEW) .]

8. Evidence of lawful conduct. A person who has been issued a registry identification card pursuant to section 2425-A must also possess a valid government-issued identification that includes a photo and proof of address in order to establish proof of authorized participation in the medical use of marijuana under this chapter. Possession of a registry identification card by a cardholder, the act of applying for such a registry identification card, possession of a written certification issued under section 2423-B or possession of a designation document executed under section 2423-A, subsection 1, paragraph F-1 is not evidence of unlawful conduct and may not be used to support the search of that person or that person's property. The possession of or application for a registry identification card or possession of a written certification does not prevent the issuance of a warrant if probable cause exists on other grounds.

[2017, c. 452, §24 (NEW) .]

9. Immunity. The immunity provisions in this subsection apply to caregivers, marijuana testing facilities, manufacturing facilities and dispensaries and the officers or directors or assistants of caregivers, marijuana testing facilities, manufacturing facilities and dispensaries.

A. A caregiver, marijuana testing facility, manufacturing facility or dispensary is not subject to prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for acting in accordance with this section to assist with the medical use of marijuana in accordance with this chapter. [2017, c. 452, §24 (NEW) .]

B. An officer or director or assistant of a caregiver, marijuana testing facility, manufacturing facility or dispensary is not subject to arrest, prosecution, search, seizure or penalty in any manner, including but not limited to a civil penalty or disciplinary action by a business or an occupational or professional licensing board or entity, and may not be denied any right or privilege solely for working for or with a caregiver, marijuana testing facility, manufacturing facility or dispensary to provide marijuana plants and marijuana products to qualifying patients, caregivers, dispensaries, manufacturing facilities or marijuana testing facilities or to otherwise assist with the medical use of marijuana in accordance with this chapter. [2017, c. 452, §24 (NEW) .]

[2017, c. 452, §24 (NEW) .]

SECTION HISTORY

2017, c. 452, §24 (NEW) .

§2430-D. COLLECTIVES PROHIBITED

Collectives are prohibited under this chapter. A person may not form or participate in a collective. The following relationships are not collectives and are not prohibited: [2017, c. 452, §24 (NEW) .]

1. Caregivers assisting for the benefit of a mutual qualifying patient. Two caregivers to the extent the relationship is to:

- A. Consult with each other to assist the same qualifying patient; [2017, c. 452, §24 (NEW) .]
- B. Refer a qualifying patient to a caregiver to obtain specialized marijuana plants or harvested marijuana; [2017, c. 452, §24 (NEW) .]
- C. Obtain specialized marijuana plants or harvested marijuana from another caregiver to assist the same qualifying patient; or [2017, c. 452, §24 (NEW) .]
- D. Transfer harvested marijuana pursuant to section 2423-A, subsection 2, paragraph K; [2017, c. 452, §24 (NEW) .]

[2017, c. 452, §24 (NEW) .]

2. Employer and assistant relationship. Two caregivers to the extent the relationship is as employer and assistant; or

[2017, c. 452, §24 (NEW) .]

3. Caregivers sharing common areas. Any number of caregivers who are operating separately and occupying separate spaces within a common facility to engage in activities authorized under section 2423-A, subsection 2, even if they also share utilities or common areas, including but not limited to storage areas and building facilities, and who do not share marijuana plants or harvested marijuana resulting from the cultivation of those plants.

[2017, c. 452, §24 (NEW) .]

SECTION HISTORY

2017, c. 452, §24 (NEW) .

§2430-E. POSSESSION PENALTIES; FRAUD PENALTY

1. Excess marijuana; forfeiture. A person who possesses marijuana plants or harvested marijuana in excess of the limits provided in this section shall forfeit the excess amounts to a law enforcement officer. The law enforcement officer is authorized to remove all excess marijuana plants or harvested marijuana possessed by that person in order to catalog the amount of excess marijuana. Possession of marijuana in excess of the limits provided in this section is a violation as follows:

- A. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount up to 1 1/4 ounces commits a civil violation for which a fine of not less than \$350 and not more than \$600 must be adjudged, none of which may be suspended; [2017, c. 452, §24 (NEW) .]
- B. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount over 1 1/4 ounces and up to 2 1/2 ounces commits a civil violation for which a fine of not less than \$700 and not more than \$1,000 must be adjudged, none of which may be suspended; and [2017, c. 452, §24 (NEW) .]
- C. Possession of harvested marijuana by a qualifying patient or a caregiver operating under section 2423-A, subsection 3, paragraph C in an excess amount over 2 1/2 ounces is a violation of Title 17-A, chapter 45. [2017, c. 452, §24 (NEW) .]

[2017, c. 452, §24 (NEW) .]

2. Repeat forfeiture. If a cardholder has previously forfeited excess marijuana pursuant to subsection 1 and a subsequent forfeiture occurs, the department shall revoke the registry identification card of the cardholder and the entire amount of marijuana plants or harvested marijuana possessed by that cardholder

must be forfeited to a law enforcement officer. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 452, §24 (NEW) .]

3. Defense for possession of excess marijuana. Except as provided in section 2426, a qualifying patient may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana possession and may present evidence in court that the patient's necessary medical use or cultivation circumstances warranted exceeding the amount of marijuana allowed under section 2423-A and was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the patient's medical diagnosis or symptoms associated with the patient's medical diagnosis that, in a medical provider's professional opinion, may be alleviated by the therapeutic or palliative medical use of marijuana.

[2017, c. 452, §24 (NEW) .]

4. Calculation of marijuana weight. The amount of marijuana possessed under this chapter must be calculated by the weight of dried harvested marijuana. A calculation of the weight of marijuana that is not dried must reduce the weight by at least 75% to account for moisture content. A calculation of the weight of marijuana in a marijuana product may not include ingredients in the product other than marijuana, except that the weight of marijuana concentrate must be included whether the marijuana concentrate is possessed by itself or within a marijuana product.

[2017, c. 452, §24 (NEW) .]

5. Penalty for fraud. Fraudulent misrepresentation regarding lawful possession or medical use of marijuana and fraudulent procurement under this chapter are governed by this subsection. A person who misrepresents to a law enforcement official any fact or circumstance relating to the possession or medical use of marijuana under this chapter to avoid arrest or prosecution commits a civil violation for which a fine of \$200 must be adjudged.

[2017, c. 452, §24 (NEW) .]

SECTION HISTORY

2017, c. 452, §24 (NEW) .

§2430-F. REGISTRATION SUSPENSION OR REVOCATION

1. Department suspension or revocation. The department may suspend or revoke a registry identification card for violation of this chapter and the rules adopted under this chapter. Revocation in accordance with section 2430-E, subsection 2 is considered a final agency action, subject to judicial review under Title 5, chapter 375, subchapter 7. Unless otherwise specified as final agency action, a person who has had authorization for conduct under this chapter revoked due to failure to comply with this chapter and rules adopted by the department may request an informal hearing. The department shall adopt rules to specify the period of time, which may not exceed one year, that the person whose registry identification card was revoked is ineligible for reauthorization under this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

The department shall immediately revoke the registry identification card of an officer or director or assistant of a dispensary who is found to have violated section 2428, subsection 9, paragraph B, and that person is disqualified from serving as an officer or director or assistant of a dispensary.

[2017, c. 452, §24 (NEW) .]

2. Suspension or revocation of registry identification card. The department shall revoke the registry identification card of a cardholder who sells, furnishes or gives marijuana to a person who is not authorized to possess marijuana for medical purposes under this chapter. A cardholder who sells, furnishes or gives marijuana to a person who is not authorized to possess marijuana for medical purposes under this chapter is liable for any other penalties for selling, furnishing or giving marijuana to a person. The department may suspend or revoke the registry identification card of any cardholder who violates this chapter, and the cardholder is liable for any other penalties for the violation.

[2017, c. 452, §24 (NEW) .]

SECTION HISTORY

2017, c. 452, §24 (NEW) .

§2430-G. RECORD KEEPING; INSPECTIONS; REPORTING REQUIREMENTS

1. Tracking; record keeping. This subsection governs the tracking, record-keeping and disclosure requirements of registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities.

A. A registered caregiver, a registered dispensary, a marijuana testing facility and a manufacturing facility shall:

- (1) Keep a record of all transfers of marijuana plants and harvested marijuana;
- (2) Keep the books and records maintained by the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility for a period of 7 years;
- (3) Complete an annual audit of business transactions of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility by an independent 3rd party; and
- (4) Make the books and records maintained under this subsection available to inspection by the department upon the department's demand.

Records kept under this paragraph must avoid identifying qualifying patients. [2017, c. 452, §24 (NEW) .]

B. The department shall develop and implement a statewide electronic portal through which registered caregivers, registered dispensaries, marijuana testing facilities and manufacturing facilities may submit to the department the records required under paragraph A and in accordance with rules adopted by the department. The department shall adopt rules regarding the process and content of records to be submitted, the frequency with which the records must be submitted and any other requirements necessary to implement this paragraph. [2017, c. 452, §24 (NEW) .]

C. A registered caregiver, registered dispensary, marijuana testing facility and manufacturing facility shall accompany all marijuana plants and harvested marijuana being transported pursuant to this chapter with a label that identifies:

- (1) The person transferring the marijuana plants or harvested marijuana, including the person's registry identification number;
- (2) The person receiving the marijuana plants or harvested marijuana, including the person's registry identification number or, if the person is not required to register under this chapter, a unique identifier assigned to the person;
- (3) A description of the marijuana plants or harvested marijuana being transferred, including the amount and form;
- (4) The time and date of the transfer; and
- (5) The destination of the marijuana plants or harvested marijuana. [2017, c. 452, §24 (NEW) .]

The department may adopt rules to implement this subsection.

[2017, c. 452, §24 (NEW) .]

2. Inspections. This subsection governs inspections of registered caregivers, registered dispensaries, including the additional location where cultivation of marijuana plants may occur, marijuana testing facilities and manufacturing facilities.

A. Notwithstanding section 2423-A, subsection 3, paragraph B and section 2428, subsection 6, paragraph I, to ensure compliance with this chapter or in response to a complaint, the department may inspect the premises where a registered caregiver conducts activity authorized under this chapter, a registered dispensary including the additional location where cultivation may occur, a marijuana testing facility and a manufacturing facility without notice during regular business hours or during hours of apparent activity, except that the department:

(1) May not enter the dwelling unit of a registered caregiver if the registered caregiver is not present; and

(2) May inspect only the area of a dwelling unit where activity authorized under this chapter occurs.

The department shall specify in writing to the registered caregiver or an officer or director or assistant of a registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility the grounds contained in the complaint when conducting an inspection in response to a complaint. [2017, c. 452, §24 (NEW) .]

B. The department shall adopt rules:

(1) Establishing standards for compliance with this chapter that are available publicly;

(2) Establishing inspection procedures that prevent contamination of any operations undertaken by the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility in compliance with this chapter; and

(3) Requiring a registered caregiver to report on the location within the registered caregiver's home where activity authorized under this chapter is occurring.

Rules adopted by the department pursuant to this paragraph may require that an annual compliance inspection is a condition of eligibility for renewal of a registration under this chapter. [2017, c. 452, §24 (NEW) .]

C. The department may suspend, revoke or refuse to renew the registration identification card or registration certificate of a registered caregiver, a registered dispensary, a marijuana testing facility or a manufacturing facility that refuses or willfully avoids 2 or more inspections under this subsection. A person whose registry identification card or registration certificate has been suspended, revoked or not renewed under this subsection may request a hearing in accordance with Title 5, chapter 375, subchapter 4. [2017, c. 452, §24 (NEW) .]

D. The department may not conduct inspections of a qualifying patient or caregiver operating under section 2423-A, subsection 2, paragraph C. [2017, c. 452, §24 (NEW) .]

[2017, c. 452, §24 (NEW) .]

3. Incident and illegal activity reporting. A registered caregiver, registered dispensary, marijuana testing facility and manufacturing facility shall report:

A. Any violation of this chapter or rule adopted under this chapter governing the operations of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility to the department within one business day of discovering the violation; and [2017, c. 452, §24 (NEW) .]

B. Any suspected illegal activity involving the operations of the registered caregiver, registered dispensary, marijuana testing facility or manufacturing facility to the department and law enforcement within 24 hours of discovering the suspected illegal activity. [2017, c. 452, §24 (NEW) .]

[2017, c. 452, §24 (NEW) .]

4. Procedures for suspending or terminating registration. The department shall adopt rules establishing procedures for suspending or terminating the registration of a registered dispensary or a registered caregiver that violates the provisions of this section or the rules adopted pursuant to this subsection.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 452, §24 (NEW) .]

SECTION HISTORY

2017, c. 452, §24 (NEW) .

§2430-H. FINES COLLECTED

Fines collected pursuant to this chapter and rules adopted by the department must be credited to the Medical Use of Marijuana Fund pursuant to section 2430. [2017, c. 452, §24 (NEW) .]

SECTION HISTORY

2017, c. 452, §24 (NEW) .

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Maine Revised Statutes
Title 28-B: ADULT USE MARIJUANA

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Title 28-B: ADULT USE MARIJUANA

Chapter 1: MARIJUANA LEGALIZATION ACT

Subchapter 1: GENERAL PROVISIONS

§101. SHORT TITLE

This chapter may be known and cited as "the Marijuana Legalization Act." [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§102. DEFINITIONS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Adult use marijuana. "Adult use marijuana" means marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Adult use marijuana product. "Adult use marijuana product" means a marijuana product that is manufactured, distributed or sold by a marijuana establishment.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Another jurisdiction. "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states of the United States except Maine.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Applicant. "Applicant" means a person that submits an application for a license under this chapter to the department for review that the department has not yet approved or denied.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Batch. "Batch" means:

A. A specific quantity of adult use marijuana harvested during a specified period of time from a specified cultivation area within a cultivation facility; or [2017, c. 409, Pt. A, §6 (NEW) .]

B. A specific quantity of adult use marijuana or adult use marijuana products produced during a specified period of time in a specified manufacturing area within a products manufacturing facility. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Batch number. "Batch number" means a distinct group of numbers, letters or symbols, or any combination thereof, assigned to a specific batch of adult use marijuana by a cultivation facility or to a specific batch of adult use marijuana or adult use marijuana products by a products manufacturing facility.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. Business entity. "Business entity" means a partnership, association, company, corporation, limited liability company or other entity incorporated or otherwise formed or organized by law. "Business entity" does not include a federal, state or municipal government organization.

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Child-resistant. "Child-resistant" means, with respect to packaging or a container:

A. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and [2017, c. 409, Pt. A, §6 (NEW) .]

B. With respect to any product intended for more than a single use or that contains multiple servings, resealable. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

9. Commissioner. "Commissioner" means the Commissioner of Administrative and Financial Services.

[2017, c. 409, Pt. A, §6 (NEW) .]

10. Container. "Container" means a sealed package in which adult use marijuana or an adult use marijuana product is placed by a marijuana store prior to sale to a consumer and that meets all applicable packaging, labeling and health and safety requirements of this chapter and the rules adopted pursuant to this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

11. Criminal justice agency. "Criminal justice agency" has the same meaning as in Title 16, section 803, subsection 4.

[2017, c. 409, Pt. A, §6 (NEW) .]

12. Cultivation or cultivate. "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction.

[2017, c. 409, Pt. A, §6 (NEW) .]

13. Cultivation facility. "Cultivation facility" means a facility licensed under this chapter to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

[2017, c. 409, Pt. A, §6 (NEW) .]

14. Department. "Department" means the Department of Administrative and Financial Services.

[2017, c. 409, Pt. A, §6 (NEW) .]

15. Disqualifying drug offense. "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more, except that "disqualifying drug offense" does not include:

A. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years prior to the submission of an application for a license under this chapter; or [2017, c. 409, Pt. A, §6 (NEW) .]

B. An offense that consisted of conduct that is authorized under chapter 3. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

16. Edible marijuana product. "Edible marijuana product" means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing marijuana or marijuana concentrate.

[2017, c. 409, Pt. A, §6 (NEW) .]

17. Flowering. "Flowering" means, with respect to a marijuana plant, the gametophytic or reproductive state of a female marijuana plant during which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of marijuana.

[2017, c. 409, Pt. A, §6 (NEW) .]

18. Identity statement. "Identity statement" means the name of a business entity as it is commonly known and used in any advertising or marketing by the business entity.

[2017, c. 409, Pt. A, §6 (NEW) .]

19. Immature marijuana plant. "Immature marijuana plant" means a marijuana plant that is not a mature marijuana plant or a seedling.

[2017, c. 409, Pt. A, §6 (NEW) .]

20. Inherently hazardous substance. "Inherently hazardous substance" means a liquid chemical, compressed gas or commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous substance" does not include any form of alcohol or ethanol.

[2017, c. 409, Pt. A, §6 (NEW) .]

21. Intoxication. "Intoxication" means a substantial impairment of an individual's mental or physical faculties as a result of drug or alcohol use.

[2017, c. 409, Pt. A, §6 (NEW) .]

22. Law enforcement officer. "Law enforcement officer" has the same meaning as in Title 17-A, section 2, subsection 17.

[2017, c. 409, Pt. A, §6 (NEW) .]

23. Licensed premises. "Licensed premises" means the premises specified in a license to operate a marijuana establishment within which the licensee is authorized under this chapter and the rules adopted pursuant to this chapter to cultivate, manufacture, distribute, test or sell adult use marijuana or adult use marijuana products.

[2017, c. 409, Pt. A, §6 (NEW) .]

24. Licensee. "Licensee" means a person licensed pursuant to this chapter to operate a marijuana establishment.

[2017, c. 409, Pt. A, §6 (NEW) .]

25. Limited access area. "Limited access area" means a building, room or other area within the licensed premises of a marijuana establishment where a licensee is authorized to cultivate, store, weigh, manufacture, package or otherwise prepare for sale adult use marijuana and adult use marijuana products in accordance with the provisions of this chapter and the rules adopted pursuant to this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

26. Manufacturing or manufacture. "Manufacturing" or "manufacture" means the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

[2017, c. 409, Pt. A, §6 (NEW) .]

27. Marijuana. "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include industrial hemp as defined in Title 7, section 2231, subsection 1 or a marijuana product.

[2017, c. 409, Pt. A, §6 (NEW) .]

28. Marijuana concentrate. "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredient combined with marijuana or marijuana concentrate to prepare the marijuana product may not be included.

[2017, c. 409, Pt. A, §6 (NEW) .]

29. Marijuana establishment. "Marijuana establishment" means a cultivation facility, a products manufacturing facility, a testing facility or a marijuana store licensed under this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

30. Marijuana extraction. "Marijuana extraction" means the process of extracting marijuana concentrate from marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.

[2017, c. 409, Pt. A, §6 (NEW) .]

31. Marijuana flower. "Marijuana flower" means the pistillate reproductive organs of a mature marijuana plant, whether processed or unprocessed, including the flowers and buds of the plant. "Marijuana flower" does not include marijuana trim or whole mature marijuana plants.

[2017, c. 409, Pt. A, §6 (NEW) .]

32. Marijuana plant. "Marijuana plant" means all species of the plant genus cannabis, including, but not limited to, a mother plant, a mature marijuana plant, an immature marijuana plant or a seedling.

[2017, c. 409, Pt. A, §6 (NEW) .]

33. Marijuana product. "Marijuana product" means a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.

[2017, c. 409, Pt. A, §6 (NEW) .]

34. Marijuana store. "Marijuana store" means a facility licensed under this chapter to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

[2017, c. 409, Pt. A, §6 (NEW) .]

35. Marijuana trim. "Marijuana trim" means any part of a marijuana plant, whether processed or unprocessed, that is not marijuana flower or a marijuana seed.

[2017, c. 409, Pt. A, §6 (NEW) .]

36. Mature marijuana plant. "Mature marijuana plant" means a marijuana plant that is flowering.

[2017, c. 409, Pt. A, §6 (NEW) .]

37. Mother plant. "Mother plant" means a mature marijuana plant that is used solely for the taking of seedling cuttings.

[2017, c. 409, Pt. A, §6 (NEW) .]

38. Municipality. "Municipality" means a city, town or plantation in this State that is not located within the unorganized and deorganized areas.

[2017, c. 409, Pt. A, §6 (NEW) .]

39. Opaque. "Opaque" means, with respect to packaging or a container, that any product inside of the packaging or container cannot be seen from outside the packaging or container.

[2017, c. 409, Pt. A, §6 (NEW) .]

40. Person. "Person" means a natural person or a business entity.

[2017, c. 409, Pt. A, §6 (NEW) .]

41. Plant canopy. "Plant canopy" means the total surface area within the licensed premises of a cultivation facility that is authorized by the department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation

of the area of the plant canopy may not include the areas within the licensed premises of a cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedlings and that are not used by the licensee at any time to cultivate mature marijuana plants.

[2017, c. 409, Pt. A, §6 (NEW) .]

42. Caregiver. "Caregiver" has the same meaning as in Title 22, section 2422, subsection 8-A.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

43. Products manufacturing facility. "Products manufacturing facility" means a facility licensed under this chapter to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

[2017, c. 409, Pt. A, §6 (NEW) .]

44. Propagation. "Propagation" means the process of reproducing marijuana plants through the use of marijuana seeds, cuttings or grafting.

[2017, c. 409, Pt. A, §6 (NEW) .]

45. Qualifying patient. "Qualifying patient" means a person who possesses a valid certification for the medical use of marijuana pursuant to Title 22, section 2423-B.

[2017, c. 409, Pt. A, §6 (NEW) .]

46. (TEXT EFFECTIVE UNTIL 12/13/18) Registered dispensary. "Registered dispensary" means a nonprofit dispensary that is registered pursuant to Title 22, section 2428.

[2017, c. 409, Pt. A, §6 (NEW) .]

46. (TEXT EFFECTIVE 12/13/18) Registered dispensary. "Registered dispensary" has the same meaning as in Title 22, section 2422, subsection 6.

[2017, c. 452, §28 (AMD) .]

47. Registered caregiver. "Registered caregiver" has the same meaning as in Title 22, section 2422, subsection 11.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

48. Resident. "Resident" means a natural person who:

A. (TEXT EFFECTIVE UNTIL 6/1/21) (TEXT REPEALED 6/1/21) Has filed a resident individual income tax return in this State pursuant to Title 36, Part 8 in each of the 4 years prior to the year in which the person files an application for licensure under this chapter. This paragraph is repealed June 1, 2021; [2017, c. 409, Pt. A, §6 (NEW) .]

B. Is domiciled in this State; and [2017, c. 409, Pt. A, §6 (NEW) .]

C. Maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

49. Sale or sell. "Sale" or "sell" means a transfer or delivery of marijuana or marijuana products for consideration.

[2017, c. 409, Pt. A, §6 (NEW) .]

50. Sample. "Sample" means:

A. An amount of marijuana or an amount of a marijuana product provided to a testing facility by a marijuana establishment or other person for testing or research and development purposes in accordance with subchapter 6; [2017, c. 409, Pt. A, §6 (NEW) .]

B. An amount of adult use marijuana or an amount of an adult use marijuana product collected from a licensee by the department for the purposes of testing the marijuana or marijuana product for product quality control purposes pursuant to section 512, subsection 2; [2017, c. 409, Pt. A, §6 (NEW) .]

C. An amount of adult use marijuana provided by a cultivation facility to another licensee for business or marketing purposes pursuant to section 501, subsection 8; or [2017, c. 409, Pt. A, §6 (NEW) .]

D. An amount of adult use marijuana or an amount of an adult use marijuana product provided to another licensee by a products manufacturing facility for business or marketing purposes pursuant to section 502, subsection 6. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

51. Seedling. "Seedling" means a marijuana plant that is:

A. Not flowering; [2017, c. 409, Pt. A, §6 (NEW) .]

B. Less than 6 inches in height; and [2017, c. 409, Pt. A, §6 (NEW) .]

C. Less than 6 inches in width. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

52. Tamper-evident. "Tamper-evident" means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.

[2017, c. 409, Pt. A, §6 (NEW) .]

53. Testing or test. "Testing" or "test" means the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency. "Testing" or "test" does not include cultivation or manufacturing.

[2017, c. 409, Pt. A, §6 (NEW) .]

54. Testing facility. "Testing facility" means a facility licensed under this chapter to develop, research and test marijuana, marijuana products and other substances.

[2017, c. 409, Pt. A, §6 (NEW) .]

55. THC. "THC" means tetrahydrocannabinol.

[2017, c. 409, Pt. A, §6 (NEW) .]

56. Universal symbol. "Universal symbol" means an image developed by the department, and made available to licensees, that indicates that a container, package or product contains marijuana or contains or is a marijuana product.

[2017, c. 409, Pt. A, §6 (NEW) .]

57. Unorganized and deorganized areas. "Unorganized and deorganized areas" has the same meaning as in Title 12, section 682, subsection 1.

[2017, c. 409, Pt. A, §6 (NEW) .]

58. Visibly intoxicated. "Visibly intoxicated" means in a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual that clearly demonstrates the state of intoxication.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §28 (AMD). 2017, c. 452, §37 (REV).

§103. UNAUTHORIZED CONDUCT; PENALTIES

1. Unauthorized conduct. Except as otherwise provided in this chapter, in the rules adopted pursuant to this chapter, in chapter 3 or in the Maine Medical Use of Marijuana Act or as specifically authorized pursuant to a license issued under this chapter, a person may not:

- A. Cultivate, manufacture or test marijuana or marijuana products; [2017, c. 409, Pt. A, §6 (NEW) .]
- B. Sell or offer for sale marijuana or marijuana products; or [2017, c. 409, Pt. A, §6 (NEW) .]
- C. Use, possess, transport, transfer, furnish or purchase marijuana or marijuana products. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Penalties. In addition to any penalties that may be imposed pursuant to this chapter or chapter 3, a person that violates any other provision of law or rule governing the conduct prohibited under subsection 1 is subject to any criminal or civil penalties that may be imposed pursuant to that other law or rule.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§104. IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT; STAFFING; RULEMAKING

1. Implementation, administration and enforcement. The department shall implement, administer and enforce this chapter and the rules adopted pursuant to this chapter and has the sole authority under this chapter to:

- A. Grant or deny applications for the licensure of marijuana establishments under this chapter; and [2017, c. 409, Pt. A, §6 (NEW) .]

B. Impose on a licensee any penalty authorized under this chapter or the rules adopted pursuant this chapter, including, but not limited to, a monetary penalty or a suspension or revocation of the licensee's license, upon a determination that the licensee has committed a violation of this chapter, a rule adopted pursuant to this chapter or a condition of licensure. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Staffing. The department may employ personnel as necessary to implement, administer and enforce this chapter and the rules adopted pursuant to this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Rulemaking; consultation. The department shall adopt all rules necessary to implement, administer and enforce this chapter.

A. The department shall consult with the Department of Agriculture, Conservation and Forestry prior to the adoption of any rules concerning the regulation of the cultivation, manufacture and testing of adult use marijuana and adult use marijuana products at cultivation facilities, products manufacturing facilities and testing facilities; the regulation of marijuana seeds and clones and marijuana plants; the use of pesticides, fungicides and herbicides in cultivation; the imposition of limits on the concentration of THC and other cannabinoids per serving in adult use marijuana products; odor control standards, sanitary standards, refrigeration requirements and storage and warehousing standards for licensees; and the regulation of the preparation, manufacture, testing, packaging and labeling of adult use marijuana and adult use marijuana products. [2017, c. 409, Pt. A, §6 (NEW).]

B. The department shall consult with the Department of Labor prior to the adoption of any rules concerning workplace, employment or other labor matters involved in the regulation of adult use marijuana and adult use marijuana products under this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

C. The department shall consult with the Department of Public Safety prior to the adoption of any rules concerning public safety or law enforcement matters involved in the regulation of adult use marijuana and adult use marijuana products under this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

Except as otherwise provided in this chapter, all rules adopted pursuant to this chapter are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§105. TRACKING SYSTEM

The department shall implement and administer a system, referred to in this section as "the tracking system," for the tracking of adult use marijuana and adult use marijuana products from immature marijuana plant to the point of retail sale, disposal or destruction. [2017, c. 409, Pt. A, §6 (NEW).]

1. Data submission requirements. The tracking system must allow licensees to submit tracking data for adult use marijuana or adult use marijuana products to the department through manual data entry or through the use of tracking system software commonly used within the marijuana industry as determined by the department.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Rules. The department shall adopt rules regarding the implementation and administration of the tracking system and tracking requirements for licensees.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§106. INDIVIDUAL IDENTIFICATION CARDS

The department shall issue individual identification cards to natural persons licensed under this chapter and, upon the request of a licensee, shall issue individual identification cards to owners, officers, managers, contractors, employees or other support staff of the licensee who meet the requirements of this section for the issuance of an individual identification card. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Rules. The department shall adopt rules regarding the issuance and format of and the information to be included on individual identification cards issued pursuant to this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Criminal history record check. Prior to issuing an individual identification card to a natural person pursuant to this section, the department shall require the person to submit to a criminal history record check in accordance with section 204.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§107. COLLECTION AND ANALYSIS OF PUBLIC HEALTH AND SAFETY DATA

The department shall develop programs or initiatives to facilitate the collection and analysis of data regarding the effects of the use of marijuana in the State, including, but not limited to, youth and adult marijuana use; school suspension and discipline relating to the use of marijuana; poison center calls, emergency department visits and hospitalizations relating to the use of or exposure to marijuana; operating under the influence citations or arrests relating to the use of marijuana; motor vehicle accidents, including information on fatalities, relating to the use of marijuana; violent crime relating to the use of marijuana generally; violent crime and property crime relating to the regulated and unregulated adult use marijuana markets; and marijuana-related citations or arrests. The department may adopt rules to implement this section. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§108. AWARENESS AND EDUCATION ON PUBLIC HEALTH AND SAFETY MATTERS

The department shall develop and implement or facilitate the development and implementation by a public or private entity of programs, initiatives and campaigns focused on increasing the awareness and education of the public on health and safety matters relating to the use of marijuana and marijuana products, including, but not limited to, programs, initiatives and campaigns focused on preventing and deterring the use of marijuana and marijuana products by persons under 21 years of age. Programs, initiatives and

campaigns developed and implemented pursuant to this section may be funded with revenue from the Adult Use Marijuana Public Health and Safety Fund established in section 1101. The department may adopt rules to implement this section. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§109. ENHANCED TRAINING FOR CRIMINAL JUSTICE AGENCIES

The department shall develop and implement or facilitate the development and implementation by a public or private entity of programs or initiatives providing enhanced training for criminal justice agencies in the requirements and enforcement of this chapter and the rules adopted pursuant to this chapter, including, but not limited to, programs providing grants to regional or local criminal justice agencies to train law enforcement officers in inspections, investigations, searches, seizures, forfeitures and personal use and home cultivation allowances under this chapter and chapter 3 and the rules adopted pursuant to this chapter and in drug recognition procedures and the general enforcement of the State's motor vehicle and criminal laws relating to the use of marijuana. Training programs or initiatives for criminal justice agencies developed and implemented pursuant to this section may be funded with revenue from the Adult Use Marijuana Public Health and Safety Fund established in section 1101. The department may adopt rules to implement this section. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§110. INVESTIGATION BY A CRIMINAL JUSTICE AGENCY OF UNLAWFUL ACTIVITY

A criminal justice agency may investigate unlawful activity in relation to a marijuana establishment and may conduct a criminal history record check of a licensee or its employees during an investigation of unlawful activity in relation to a marijuana establishment. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§111. CULTIVATION, CARE OR SALE OF MARIJUANA BY STATE OR LOCAL AGENCY PROHIBITED

A state, county or local agency or department, including, but not limited to, the department and a criminal justice agency, may not: [2017, c. 409, Pt. A, §6 (NEW).]

1. Cultivation or care of marijuana or marijuana products prohibited. Cultivate or otherwise care for or be required to cultivate or otherwise care for any marijuana or marijuana products belonging to, forfeited by or seized from any licensee or person pursuant to this chapter or chapter 3 or pursuant to any other applicable criminal or civil laws or rules; or

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Sale of marijuana or marijuana products prohibited. Sell or be required to sell marijuana or marijuana products belonging to, forfeited by or seized from any licensee or person pursuant to this chapter or chapter 3 or pursuant to any other applicable criminal or civil laws or rules or that are otherwise in the possession of the agency or department.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§112. EMPLOYMENT POLICIES

Except as otherwise provided in the Maine Medical Use of Marijuana Act, an employer: [2017, c. 409, Pt. A, §6 (NEW).]

1. Marijuana in workplace. Is not required to permit or accommodate the use, consumption, possession, trade, display, transportation, sale or cultivation of marijuana or marijuana products in the workplace;

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Workplace policies regarding marijuana use. May enact and enforce workplace policies restricting the use of marijuana and marijuana products by employees in the workplace or while otherwise engaged in activities within the course and scope of employment; and

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Discipline of employees. May discipline employees who are under the influence of marijuana in the workplace or while otherwise engaged in activities within the course and scope of employment in accordance with the employer's workplace policies regarding the use of marijuana and marijuana products by employees.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§113. REPORT TO LEGISLATURE

1. Report required. By February 15, 2020, and annually thereafter, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over adult use marijuana matters as provided in this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Report contents. The report required under subsection 1 must, at a minimum, include the following information:

A. The number of applications for each type of license submitted to the department pursuant to this chapter during the prior calendar year, including, if applicable, the number of applications for license renewals, and the number of each type of license conditionally approved by the department during the prior calendar year; [2017, c. 409, Pt. A, §6 (NEW).]

B. The total number of each type of active license issued by the department pursuant to this chapter in the prior calendar year following local authorization of a conditionally approved licensee; [2017, c. 409, Pt. A, §6 (NEW).]

C. The total square footage of plant canopy approved by the department for active cultivation facilities licensed in the prior calendar year, the percentage of active cultivation facility licenses by cultivation tier and, if applicable, the number of approved increases in the maximum plant canopy allowed under a tier 4 cultivation facility license in the prior calendar year pursuant to section 304; [2017, c. 409, Pt. A, §6 (NEW).]

D. The total amount of application fees and license fees collected pursuant to this chapter and the total amount of the excise and sales tax revenue collected on the sale of adult use marijuana and adult use marijuana products during the prior calendar year; [2017, c. 409, Pt. A, §6 (NEW).]

E. An overview of current adult use marijuana-related staffing at the department and the cost to the department to regulate the adult use marijuana industry in the State during the prior fiscal year and cost projections for the upcoming fiscal year; [2017, c. 409, Pt. A, §6 (NEW) .]

F. The total reported volume and value of adult use marijuana cultivated and sold by all cultivation facilities in the prior calendar year, when available; [2017, c. 409, Pt. A, §6 (NEW) .]

G. The total reported volume and value of adult use marijuana and adult use marijuana products sold by all marijuana stores in the prior calendar year, when available; [2017, c. 409, Pt. A, §6 (NEW) .]

H. The number of inspections of the licensed premises of licensees performed by the department during the prior calendar year and the results of those inspections, including, but not limited to, the number of inspections resulting in license violations and the percentage of all licensees inspected during the prior calendar year; [2017, c. 409, Pt. A, §6 (NEW) .]

I. The number of license violations committed by licensees during the prior calendar year and a breakdown of those violations into specific categories based on the type of violation and the outcome of the violation, including, but not limited to, the total amount of monetary penalties imposed and collected by the department and the percentage of total license violations resulting in the imposition of a monetary penalty, license suspension or license revocation; [2017, c. 409, Pt. A, §6 (NEW) .]

J. Public health and safety data collected, received or analyzed by the department pursuant to section 107 in the prior calendar year; and [2017, c. 409, Pt. A, §6 (NEW) .]

K. Recommendations, including any suggested legislation, to address any issues with the regulation of the adult use marijuana industry in the State encountered by the department in the prior calendar year. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Authority to report out legislation. After reviewing the report required under subsection 1, the joint standing committee of the Legislature having jurisdiction over adult use marijuana matters may report out legislation to implement any recommendations contained in the report or to address any other issues identified in the report.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

Subchapter 2: GENERAL LICENSING REQUIREMENTS

§201. LICENSE PROCESS; LICENSE TYPES

The department, upon receipt of an application in the prescribed form that meets all applicable requirements for licensure under this chapter and the rules adopted pursuant to this chapter, shall issue to the applicant a conditional license to operate one or more of the following types of marijuana establishments or shall deny the application in accordance with section 206: [2017, c. 409, Pt. A, §6 (NEW) .]

1. Cultivation facility. Consistent with the requirements and restrictions of section 205, subsection 2, paragraph A and subchapter 3, a cultivation facility license;

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Testing facility. Consistent with the requirements and restrictions of section 205, subsection 2, paragraph B and section 503, subsection 2, a testing facility license;

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Products manufacturing facility. A products manufacturing facility license; or

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Marijuana store. Consistent with the restrictions of section 205, subsection 2, paragraph C, a marijuana store license.

[2017, c. 409, Pt. A, §6 (NEW) .]

Except as provided in section 205, the department may not impose any limitation on the number of each type of license that it issues to a qualified individual applicant or on the total number of each type of license that it issues to qualified applicants pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§202. GENERAL LICENSING CRITERIA

An applicant for a license to operate a marijuana establishment must meet each of the following requirements, if applicable. Except as otherwise provided in this section, if the applicant is a business entity, every officer, director, manager and general partner of the business entity must meet each of the requirements of this section. An applicant shall disclose in or include with its application the names and addresses of the applicant and all natural persons and business entities having a direct or indirect financial interest in the applied-for license and the nature and extent of the financial interest held by each person or entity and, if applicable, the nature and extent of any financial interest the person or entity has in any other license applied for or issued under this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Age. The applicant must be at least 21 years of age. If the applicant is a business entity, every officer, director, manager and general partner of the business entity must be at least 21 years of age.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Resident. If the applicant is a natural person, the applicant must be a resident. If the applicant is a business entity:

A. Every officer, director, manager and general partner of the business entity must be a natural person who is a resident; and [2017, c. 409, Pt. A, §6 (NEW) .]

B. A majority of the shares, membership interests, partnership interests or other equity ownership interests as applicable to the business entity must be held or owned by natural persons who are residents or business entities whose owners are all natural persons who are residents. [2017, c. 409, Pt. A, §6 (NEW) .]

This subsection does not apply to an applicant for a testing facility license.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Incorporated in State. If the applicant is a business entity, the business entity must be incorporated in the State or otherwise formed or organized under the laws of the State.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. No disqualifying drug offense. The applicant may not have been previously convicted of a disqualifying drug offense.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Not employee of state agency. The applicant may not be employed by the department or any other state agency with regulatory authority under this chapter or the rules adopted pursuant to this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Not law enforcement officer or corrections officer. The applicant may not be a law enforcement officer; a corrections officer as defined in Title 25, section 2801-A, subsection 2; or any other natural person subject to the certification requirements of Title 25, chapter 341.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. No license revocation. The applicant may not have had a license previously issued under this chapter revoked.

[2017, c. 409, Pt. A, §6 (NEW) .]

8. No medical registry identification card or registration certificate revocation. The applicant may not have had a registry identification card or registration certificate previously issued pursuant to the Maine Medical Use of Marijuana Act revoked.

[2017, c. 409, Pt. A, §6 (NEW) .]

9. No revocation of other state marijuana license, permit, certificate or other government-issued authorization. The applicant may not have had a license, permit, certificate or other government-issued authorization issued in another jurisdiction allowing the cultivation, manufacture, testing or sale of marijuana or marijuana products revoked.

[2017, c. 409, Pt. A, §6 (NEW) .]

10. No outstanding court-ordered payments. A license may not be issued to an applicant that has any outstanding payments due in this State on court-ordered fines, court-appointed attorney's fees or court-ordered restitution.

[2017, c. 409, Pt. A, §6 (NEW) .]

11. Criminal history record check. The applicant must have submitted to a criminal history record check in accordance with the requirements of section 204.

[2017, c. 409, Pt. A, §6 (NEW) .]

12. Compliance with application process; no false statement of material fact. The applicant must have completed all application forms required by the department fully and truthfully and complied with all information requests of the department relating to the license application. A license may not be issued to an applicant that has knowingly or recklessly made any false statement of material fact to the department in applying for a license under this chapter. The department shall revoke the license of a licensee pursuant to subchapter 8 if, subsequent to the issuance of the license, the department determines that the licensee knowingly or recklessly made a false statement of material fact to the department in applying for the license.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§203. ADDITIONAL LICENSING CONSIDERATIONS

An applicant for a license to operate a marijuana establishment shall submit, and the department shall consider in determining whether to grant the license, the following additional information. If the applicant is a business entity, the applicant must submit the information required by this section for every officer, director, manager and general partner of the business entity. [2017, c. 409, Pt. A, §6 (NEW).]

1. Other convictions. The applicant shall submit information regarding the applicant's criminal convictions in this State or in another jurisdiction for any offense involving dishonesty, deception, misappropriation or fraud. The applicant may submit and the department shall consider if submitted any information regarding the applicant's criminal history record, including, but not limited to, evidence of rehabilitation, character references and educational achievements, with special consideration given to the time between the applicant's last criminal conviction and the consideration by the department of the application for licensure.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Tax compliance. The applicant shall submit information regarding:

A. The applicant's history of paying income and other taxes owed to the State, to another jurisdiction, if applicable, and to the United States Internal Revenue Service over the 2 years immediately preceding the year in which the application is filed; and [2017, c. 409, Pt. A, §6 (NEW).]

B. Any outstanding tax liens imposed or levied against the applicant in this State or in another jurisdiction within the 5 years immediately preceding the year in which the application is filed. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Other state marijuana-related violations or penalties. If the applicant has held a license, permit, certificate or other government-issued authorization in another jurisdiction allowing the cultivation, manufacture, testing or sale of marijuana or marijuana products, the applicant shall submit information regarding any violations by or penalties imposed on the applicant in that other jurisdiction.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§204. CRIMINAL HISTORY RECORD CHECK

The department shall request a criminal history record check for each applicant for a license under this chapter and may at any time require a licensee to submit to a criminal history record check in accordance with this section. If the applicant is a business entity, every officer, director, manager and general partner of the business entity is required to submit to a criminal history record check in accordance with this section. A criminal history record check conducted pursuant to this section must include criminal history record information obtained from the Maine Criminal Justice Information System established in Title 16, section 631 and the Federal Bureau of Investigation. [2017, c. 409, Pt. A, §6 (NEW).]

1. Record of public criminal history information required. Criminal history record information obtained from the Maine Criminal Justice Information System pursuant to this section must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Other state and national criminal history record information required. Criminal history record information obtained from the Federal Bureau of Investigation pursuant to this section must include other state and national criminal history record information.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Fingerprinting. An individual required to submit to a criminal history record check under this section shall submit to having the individual's fingerprints taken. The State Police, upon payment by the individual of the fee required under subsection 4, shall take or cause to be taken the individual's fingerprints and shall forward the fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. The State Bureau of Identification shall conduct the state and national criminal history record checks required under this section. Except for the portion of a payment, if any, that constitutes the processing fee for a criminal history record check charged by the Federal Bureau of Investigation, all money received by the State Police under this section must be paid to the Treasurer of State, who shall apply the money to the expenses incurred by the Department of Public Safety in the administration of this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Fees. The department shall by rule set the amount of the fee to be paid by an individual under subsection 3 for each criminal history record check required to be performed under this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Availability of criminal history record information. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Use of criminal history record information. State and national criminal history record information obtained by the department under this section may be used only for the purpose of screening an applicant for a license or a licensee under this chapter or as necessary for the issuance of an individual identification card under section 106.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. Confidentiality. All criminal history record information obtained by the department pursuant to this section is confidential, is for the official use of the department only and may not be disseminated outside of the department or disclosed to any other person or entity except as provided in subsection 5.

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Rules. The department, after consultation with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§205. APPLICATION PROCESS; ISSUANCE OF LICENSE

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Forms; payment of fees. An applicant shall file an application on forms prepared and furnished by the department for the type of license sought along with the appropriate application fee as determined by the department pursuant to section 207.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Applications for multiple licenses. An applicant may apply for and be granted multiple licenses of any license type under this chapter, except that:

A. If the applicant has applied for the issuance or renewal of a cultivation facility license, the issuance or renewal of the cultivation facility license may not result in the applicant or a person with a direct or indirect financial interest in that license holding or having a direct or indirect financial interest in:

(1) More than 3 cultivation facility licenses; or

(2) Multiple cultivation facility licenses with a combined total licensed amount of plant canopy exceeding 30,000 square feet, except when that exceedance is solely attributable to approved increases in the maximum licensed area of plant canopy authorized under a tier 4 cultivation facility license pursuant to section 304; [2017, c. 409, Pt. A, §6 (NEW) .]

B. If the applicant has applied for the issuance or renewal of a testing facility license, the applicant may not be a caregiver or registered caregiver or have an interest in a registered dispensary, a cultivation facility license, a products manufacturing facility license or a marijuana store license. If the applicant has applied for the issuance or renewal of any license under this chapter that is not a testing facility license, the applicant may not have an interest in a testing facility license. An applicant that meets the requirements for the issuance of a testing facility license under this chapter and the requirements of this paragraph may apply for and be issued multiple testing facility licenses. For purposes of this paragraph, "interest" means an equity ownership interest or a partial equity ownership interest or any other type of financial interest, including, but not limited to, being an investor or serving in a management position; and [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

C. (TEXT EFFECTIVE UNTIL 1/1/22) (TEXT REPEALED 1/1/22) If the applicant has applied for the issuance or renewal of a marijuana store license, the issuance or renewal of the marijuana store license may not result in the applicant or a person with a direct or indirect financial interest in that license holding or having a direct or indirect financial interest in more than 4 marijuana store licenses.

This paragraph is repealed January 1, 2022. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

3. Issuance of conditional license. Within 90 days of receipt of an application for a license to operate a marijuana establishment or for renewal of an existing license to operate a marijuana establishment, the department either shall issue to the applicant a conditional license to operate the marijuana establishment if the applicant meets all applicable requirements for licensure under this chapter and the rules adopted pursuant to this chapter or shall deny the application in accordance with section 206.

A. A licensee that has been issued a conditional license by the department may not engage in the cultivation, manufacture, testing or sale of adult use marijuana or adult use marijuana products until the department has issued an active license to the licensee pursuant to subsection 4. [2017, c. 409, Pt. A, §6 (NEW) .]

B. A conditional license issued by the department pursuant to this subsection is effective for a period of one year from the date of issuance and may not be renewed. If a licensee issued a conditional license by the department fails to obtain an active license from the department pursuant to subsection 4 within one year from the date of issuance of the conditional license, the conditional license expires. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Issuance of active license upon certification of local authorization and payment of applicable license fee. The department shall issue an active license to an applicant that has been issued a conditional license pursuant to subsection 3 and that meets all applicable requirements of this subsection.

A. Within 10 days of receiving certification of local authorization from a municipality as required by section 402, subsection 3, paragraph B or, in the case of a marijuana establishment to be located in the unorganized and deorganized areas, from the Maine Land Use Planning Commission as required by section 403, subsection 3, paragraphs B and C, the department shall notify the applicant that certification of local authorization has been confirmed and that, in order for the department to issue an active license, the applicant must:

- (1) Pay the applicable license fee required pursuant to section 207;
- (2) Submit a facility plan that specifies the location, size and layout of the marijuana establishment within the municipality or, in the case of a marijuana establishment to be located in the unorganized and deorganized areas, within the town, plantation or township in which the marijuana establishment will be located;
- (3) If the application is for a license to operate a cultivation facility, submit updated operating and cultivation plans as required under section 302 based upon the actual premises to be licensed, except that, if no changes to the original operating and cultivation plans submitted by the applicant are necessary based upon the actual premises to be licensed, then the applicant may satisfy this requirement by resubmitting the original operating and cultivation plans and noting on those plans that no changes are necessary; and
- (4) If the application is for a license to operate a nursery cultivation facility, as described in section 301, subsection 5, or a marijuana store, register with the State Tax Assessor pursuant to Title 36, section 1754-B to collect and remit the sales tax on the sale of adult use marijuana and adult use marijuana products imposed under Title 36, section 1811. [2017, c. 409, Pt. A, §6 (NEW) .]

B. The department shall prepare and furnish to applicants, municipalities and the Maine Land Use Planning Commission a certification form by which the municipality may certify to the department that the applicant has obtained local authorization as required by section 402, subsection 3, paragraph B or, in the case of a marijuana establishment to be located in the unorganized and deorganized areas, the Maine Land Use Planning Commission may certify to the department that the applicant has obtained local authorization as required by section 403, subsection 3, paragraphs B and C. [2017, c. 409, Pt. A, §6 (NEW) .]

C. Upon receipt of payment of the applicable license fee and any other documentation required under paragraph A, the department shall issue an active license to the applicant. The license must specify the date of issuance of the license, the period of licensure, the date of expiration of the license, the name of the licensee and the address of the licensed premises. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Each license separate. Each license issued by the department to an applicant under this chapter is separate and distinct from any other license issued by the department to that same applicant under this chapter. A person must obtain a separate license under this chapter for each proposed geographical location of any type of marijuana establishment.

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Licensee must maintain possession of premises. As a condition of licensure, a licensee must at all times maintain possession of the licensed premises of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises. If a licensee fails to maintain possession of the licensed premises,

the licensee shall immediately cease all activities relating to the operation of the marijuana establishment and may apply to the department for relocation of the licensed premises pursuant to section 211 or may terminate its license pursuant to section 212.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§206. DENIAL OF LICENSE

1. Denial for good cause. The department, for good cause, may deny an application for an initial license, a license renewal, a transfer of ownership interests or a relocation of licensed premises. Denial of an application by the department pursuant to this section constitutes a final agency action as defined in Title 5, section 8002, subsection 4.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Good cause defined. As used in this section, "good cause" means a finding by the department that:

A. An applicant or licensee has violated, does not meet or has failed to comply with any of the terms, conditions or provisions of this chapter, the rules adopted pursuant to this chapter or any other applicable state or local law, rule or regulation; or [2017, c. 409, Pt. A, §6 (NEW) .]

B. An applicant or licensee has failed to comply with any special terms, consent decree or conditions placed upon the previously issued license pursuant to an order of the department; the municipality in which the licensed premises are located; the town or plantation in the unorganized and deorganized areas in which the licensed premises are located; in the case of a township in the unorganized and deorganized areas in which the licensed premises are located, the county commissioners of the county in which the township is located; or, in the case of a marijuana establishment located in the unorganized and deorganized areas, the Maine Land Use Planning Commission. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Notification of denial and right to appeal. Upon the department's determination to deny a license application, the department shall notify the applicant in writing of the denial, the basis for the denial and the applicant's right to appeal the denial to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§207. APPLICATION FEES; LICENSE FEES

The department, in accordance with the provisions of this section, shall adopt by rule a licensing fee schedule establishing fees that are designed to meet, but not to exceed, the estimated licensing, enforcement and administrative costs of the department under this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Fees for cultivation facilities. For a cultivation facility license, the department shall require payment of an application fee and a license fee as follows:

A. For a tier 1 cultivation facility license, as described in section 301, subsection 1, an application fee of \$100 and a license fee as follows:

- (1) If the applicant has applied for a plant-count-based tier 1 cultivation facility license as described in section 301, subsection 1, paragraph A, a license fee of not more than \$9 per mature marijuana plant for an outdoor cultivation facility and not more than \$17 per mature marijuana plant for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; or
- (2) If the applicant has applied for a plant-canopy-based tier 1 cultivation facility license as described in section 301, subsection 1, paragraph B, a license fee of not more than \$250 for an outdoor cultivation facility and not more than \$500 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; [2017, c. 409, Pt. A, §6 (NEW) .]

B. For a tier 2 cultivation facility license, as described in section 301, subsection 2, an application fee of \$500 and a license fee of not more than \$1,500 for an outdoor cultivation facility and not more than \$3,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; [2017, c. 409, Pt. A, §6 (NEW) .]

C. For a tier 3 cultivation facility license, as described in section 301, subsection 3, an application fee of \$500 and a license fee of not more than \$5,000 for an outdoor cultivation facility and not more than \$10,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; [2017, c. 409, Pt. A, §6 (NEW) .]

D. For a tier 4 cultivation facility license, as described in section 301, subsection 4, an application fee of \$500 and a license fee of not more than \$15,000 for an outdoor cultivation facility and not more than \$30,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas, except that, for a tier 4 cultivation facility license for which an increased amount of licensed plant canopy has been approved by the department pursuant to section 304, for each approved increase in the amount of licensed plant canopy, the department may increase the maximum license fee by not more than \$5,000 for an outdoor cultivation facility and by not more than \$10,000 for an indoor cultivation facility or a cultivation facility with both indoor and outdoor cultivation areas; and [2017, c. 409, Pt. A, §6 (NEW) .]

E. For a nursery cultivation facility license, as described in section 301, subsection 5, an application fee of \$60 and a license fee of \$350. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Fees for products manufacturing facilities and marijuana stores. For a products manufacturing facility license or a marijuana store license, the department shall require payment of an application fee of \$250 and a license fee of not more than \$2,500.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Fees for testing facilities. For a testing facility license, the department shall require payment of an application fee of \$250 and a license fee of not more than \$1,000.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Payment of fees; fees to be deposited into Adult Use Marijuana Regulatory Coordination Fund.

An applicant shall pay the application fee required by the department at the time that the applicant submits an application for licensure to the department for processing. An applicant shall pay the license fee required by the department in accordance with section 205, subsection 4. All fees collected by the department pursuant to this section must be deposited into the Adult Use Marijuana Regulatory Coordination Fund established in section 1102.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Return of fees prohibited. The department may not return to an applicant or licensee or reimburse an applicant or licensee for any portion of an application or license fee paid by the applicant or licensee, regardless of whether the applicant withdraws its application prior to a final decision of the department on the application, the licensee voluntarily terminates its license pursuant to section 212 or the department suspends or revokes the licensee's license in accordance with the provisions of subchapter 8.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§208. LICENSE TERM

An active license issued by the department pursuant to section 205, subsection 4 is effective for a period of one year from the date of issuance and may be renewed pursuant to section 209. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§209. LICENSE RENEWAL

1. Notification of expiration date. Ninety days prior to the expiration of an existing license issued under section 205, subsection 4, the department shall notify the licensee of the expiration date and the opportunity for renewal. Except as otherwise provided in this section, a licensee seeking to renew an existing license must file an application for renewal with the department, on forms prepared and furnished by the department, not less than 30 days prior to the date of expiration of the license.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Extension for good cause shown; late applications. Notwithstanding subsection 1, the department may for good cause shown accept an application for renewal of an existing license less than 30 days prior to the date of expiration of the license upon the payment of a late application fee to the department. The department may not accept an application for renewal of a license after the date of expiration of that license.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Operation under expired license. A licensee that files an application for renewal of its existing license and pays all required fees under this section prior to the expiration of the license may continue to operate the marijuana establishment under that license notwithstanding its expiration until such time as the department takes final action on the renewal application, except when the department suspends or revokes the license in accordance with the provisions of subchapter 8 prior to taking final action on the renewal application.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Expired license; cessation of activity and forfeiture of marijuana and marijuana products. Except as provided in subsection 3, a person whose license has expired shall immediately cease all activities relating to the operation of the marijuana establishment previously authorized under that license and ensure that all adult use marijuana and adult use marijuana products cultivated, manufactured or otherwise in the possession of the person pursuant to that license are forfeited to the department for destruction in accordance with section 803.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Renewal application process; fees; rules. An applicant seeking renewal of a license to operate a marijuana establishment must pay to the department a renewal application fee or, if applicable, a late renewal application fee, and must demonstrate continued compliance with all applicable licensing criteria under this chapter, including, but not limited to, obtaining local authorization as required by section 402, subsection 3, paragraph B or, in the case of a marijuana establishment located in the unorganized and deorganized areas, as required by section 403, subsection 3, paragraphs B and C, except that an applicant seeking renewal of a license is not required to submit to a criminal history record check under section 204 unless specifically required to do so by the department.

A. The department may not issue an active license to a licensee seeking renewal of a license until the licensee obtains local authorization as required by section 402, subsection 3, paragraph B or, in the case of a marijuana establishment located in the unorganized and deorganized areas, as required by section 403, subsection 3, paragraphs B and C, pays the applicable license fee required under section 207 and meets all other applicable requirements for the issuance of an active license under section 205, subsection 4. [2017, c. 409, Pt. A, §6 (NEW) .]

B. The department shall by rule set forth requirements for the submission, processing and approval of a renewal application, which must include, but are not limited to, setting of a reasonable renewal application fee and a reasonable late renewal application fee. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§210. TRANSFER OF OWNERSHIP INTERESTS

1. Transfer application. A licensee may apply to the department, on forms prepared and furnished by the department, for approval to transfer ownership interests in the license, including, but not limited to, a transfer of only a portion of the ownership interests in the license.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Compliance with licensure requirements; rules. A person seeking to assume an ownership interest in a license pursuant to this section must demonstrate to the department compliance with all applicable requirements for licensure under this chapter and the rules adopted under this chapter. The department shall by rule adopt requirements for the submission of a license transfer application and standards for the approval of a license transfer application, including, but not limited to, provisions relating to local authorization of a transfer of ownership interests in a license.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§211. RELOCATION OF LICENSED PREMISES

1. Relocation application. A licensee may apply to the department, on forms prepared and furnished by the department, for approval to relocate the licensed premises of the marijuana establishment that the licensee is licensed to operate.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Local authorization required. The department shall, within 10 days of receiving certification of local authorization pursuant to section 402, subsection 3, paragraph B from the municipality in which the relocated licensed premises are to be located or pursuant to section 403, subsection 3, paragraphs B and C from the Maine Land Use Planning Commission if the relocated licensed premises are to be located in the unorganized and deorganized areas, notify the licensee that local authorization has been confirmed for the relocation and that the licensee may proceed with relocation, and the department shall issue to the licensee an updated license specifying the address of the new premises.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Effect on license term. A relocation of licensed premises pursuant to this section does not extend or otherwise modify the license term of the license subject to relocation.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Rules. The department shall by rule adopt requirements for the submission of a license relocation application and standards for the approval of a relocation application.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§212. TERMINATION OF LICENSE

1. Notification of termination required. A licensee may not permanently abandon the licensed premises of the licensee or otherwise permanently cease all activities relating to the operation of the marijuana establishment under its license, whether voluntarily or pursuant to a license revocation in accordance with subchapter 8, without notifying the department and the municipality in which the licensed premises are located at least 48 hours in advance of the abandonment or termination.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Forfeiture and destruction of marijuana and marijuana products. Prior to abandoning the licensed premises of the licensee or terminating operations, a licensee shall provide the department and the municipality in which the licensed premises are located with a full accounting of all adult use marijuana and adult use marijuana products located within the licensed premises and forfeit the marijuana and marijuana products to the department for destruction in accordance with section 803.

[2017, c. 409, Pt. A, §6 (NEW) .]

For the purposes of this section, "municipality" means, in the case of a marijuana establishment not located in the unorganized and deorganized areas, the city, town or plantation in which the marijuana establishment is located; or, in the case of a marijuana establishment located in the unorganized and deorganized areas, the Maine Land Use Planning Commission and the town or plantation in which the marijuana establishment is located or, in the case of a marijuana establishment located in a township, the county commissioners of the county in which the township is located. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§213. NOTICE OF NEW OWNER, OFFICER, MANAGER OR EMPLOYEE

Before any proposed new owner, officer, manager or employee may own, manage, work for or otherwise associate with a licensee, the licensee shall notify the department in writing of the name, address and date of birth of the proposed new owner, officer, manager or employee and the proposed new owner, officer, manager or employee shall submit to a criminal history record check pursuant to section 204, obtain an individual identification card pursuant to section 106 and, in the case of a new owner or other person assuming an equity ownership interest or a partial equity ownership interest in the license, obtain approval for the transfer of ownership interests pursuant to section 210. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§214. INACTIVE LICENSES

The department may revoke or refuse to renew any license if it determines that the licensed premises have been inactive without reasonable justification for a period of one year or more. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§215. NOTIFICATION TO MUNICIPALITY; SHARING OF INFORMATION WITH BUREAU OF REVENUE SERVICES

The department shall notify a municipality within 14 days of the date the department approves, renews, denies, suspends or revokes the license of a licensee whose licensed premises are located or proposed to be located in the municipality; imposes a monetary penalty on a licensee located within the municipality; approves relocation of the licensed premises of a marijuana establishment to or from the municipality; or approves a transfer of ownership interest in a license with respect to which the licensed premises are located within the municipality. [2017, c. 409, Pt. A, §6 (NEW).]

The department shall provide the Bureau of Revenue Services with the same information provided to a municipality under this section at the time that the department notifies the municipality. [2017, c. 409, Pt. A, §6 (NEW).]

For the purposes of this section, "municipality" has the same meaning as in section 212. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 3: LICENSING REQUIREMENTS FOR CULTIVATION FACILITIES**§301. CULTIVATION FACILITY LICENSE TYPES**

Subject to the requirements and restrictions of this subchapter and the requirements of subchapter 2, the department may issue to an applicant any of the following types of cultivation facility licenses: [2017, c. 409, Pt. A, §6 (NEW).]

1. Tier 1 cultivation facility license. A tier 1 cultivation facility license, which allows cultivation by a licensee of:

A. Not more than 30 mature marijuana plants and an unlimited number of immature marijuana plants and seedlings; or [2017, c. 409, Pt. A, §6 (NEW).]

B. Not more than 500 square feet of plant canopy. [2017, c. 409, Pt. A, §6 (NEW).]

An applicant for a tier 1 cultivation facility license shall designate in its cultivation plan whether the license sought is a plant-count-based tier 1 cultivation facility license under paragraph A or a plant-canopy-based tier 1 cultivation facility license under paragraph B;

[2017, c. 2, §12 (COR) .]

2. Tier 2 cultivation facility license. A tier 2 cultivation facility license, which allows cultivation by a licensee of not more than 2,000 square feet of plant canopy;

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Tier 3 cultivation facility license. A tier 3 cultivation facility license, which allows cultivation by a licensee of not more than 7,000 square feet of plant canopy;

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Tier 4 cultivation facility license. A tier 4 cultivation facility license, which allows cultivation by a licensee of not more than 20,000 square feet of plant canopy, except as provided in section 304; or

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Nursery cultivation facility license. A nursery cultivation facility license, which allows cultivation by a licensee of not more than 1,000 square feet of plant canopy, subject to the requirements and restrictions of section 501, subsection 3.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

RR 2017, c. 2, §12 (COR). 2017, c. 409, Pt. A, §6 (NEW) .

§302. ADDITIONAL INFORMATION REQUIRED FOR APPLICATION FOR CULTIVATION FACILITY LICENSE

In addition to the information required to be submitted to the department pursuant to subchapter 2 and the rules relating to licensure of a cultivation facility adopted pursuant to this chapter, an applicant for a cultivation facility license shall submit to the department the following information. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Operating plan. The applicant shall submit an operating plan demonstrating the proposed size and layout of the cultivation facility; plans for wastewater and waste disposal for the cultivation facility; plans for providing electricity, water and other utilities necessary for the normal operation of the cultivation facility; plans for securing the proposed facility and otherwise meeting applicable security requirements under this chapter and the rules adopted pursuant to this chapter; and plans for compliance with applicable building code and federal and state environmental requirements.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Cultivation plan. The applicant shall submit a cultivation plan demonstrating the proposed size and layout of the cultivation areas at the cultivation facility and designating:

A. The total amount of plant canopy or, in the case of a plant-count-based tier 1 cultivation facility license, the number of mature marijuana plants proposed under the license; [2017, c. 409, Pt. A, §6 (NEW) .]

B. The total percentage or square footage of plant canopy designated under paragraph A, or, in the case of a plant-count-based tier 1 cultivation facility license, the areas within the cultivation facility within which the applicant proposes to cultivate mother plants, seedlings and immature marijuana plants. If the applicant does not intend to cultivate mother plants, seedlings or immature marijuana plants at any time within any portion of the plant canopy designated under paragraph A, the applicant shall state that intent on the cultivation plan and shall include in the plan information regarding the approximate square footage of the cultivation areas outside of the plant canopy but within the proposed licensed premises of the cultivation facility in which the applicant intends to cultivate mother plants, seedlings and immature marijuana plants; and [2017, c. 409, Pt. A, §6 (NEW).]

C. The total percentage or square footage of plant canopy designated under paragraph A, or, in the case of a plant-count-based tier 1 cultivation facility license, the areas within the cultivation facility, within which the applicant proposes to cultivate mature marijuana plants. An applicant for a nursery cultivation facility license shall meet the requirements of this paragraph by designating on the cultivation plan the areas within the cultivation facility within which the applicant proposes to cultivate mature marijuana plants, demonstrating the physical separation of such areas from the areas in which immature marijuana plants and seedlings are to be cultivated in accordance with section 501, subsection 3, paragraph B. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§303. INCREASE IN CULTIVATION TIER UPON RENEWAL

A licensee seeking renewal of a cultivation facility license may, if applicable and in accordance with this section, apply for a tier of cultivation facility license with a greater area of authorized plant canopy than is authorized under the licensee's current cultivation facility license. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Approval criteria. The department may issue the applied-for tier of cultivation facility license if the licensee otherwise meets all applicable requirements for continued licensure under this chapter and the rules adopted pursuant to this chapter and the licensee has demonstrated to the department's satisfaction that:

A. The licensee has over the current period of licensure sold at least 85% of the adult use marijuana cultivated by the licensee at its cultivation facility; and [2017, c. 409, Pt. A, §6 (NEW) .]

B. The approval of the applied-for tier of cultivation facility license will not cause the licensee to exceed the combined plant canopy limitation in section 205, subsection 2, paragraph A. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Consideration of renewal of current license tier if approval criteria not met. If the department determines that the licensee has failed to satisfy the requirements of this section for the applied-for tier of cultivation facility license, the department shall consider renewing the licensee's license at the current tier.

[2017, c. 409, Pt. A, §6 (NEW) .]

This section does not apply to a nursery cultivation facility licensee. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§304. INCREASE IN MAXIMUM LICENSED PLANT CANOPY UPON RENEWAL OF TIER 4 LICENSE

In accordance with the requirements of this section, not more than once every 2 years, a licensee seeking renewal of a tier 4 cultivation facility license may apply to increase by 7,000 square feet the maximum area of plant canopy authorized under its current tier 4 cultivation facility license. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Approval criteria. The department may approve the requested increase if the licensee otherwise meets all applicable requirements for continued licensure under this chapter and the rules adopted pursuant to this chapter and the licensee has demonstrated to the department's satisfaction that the licensee has over the past 2-year period of licensure sold at least 85% of the adult use marijuana cultivated by the licensee at its cultivation facility.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Consideration of renewal of current licensed amount of plant canopy if approval criteria not met. If the department determines that the licensee has failed to satisfy the requirements of this section for the requested increase, the department shall consider renewing the licensee's license at the current tier and currently authorized maximum area of plant canopy.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

Subchapter 4: LOCAL REGULATION OF MARIJUANA ESTABLISHMENTS

§401. MUNICIPAL REGULATION OF MARIJUANA ESTABLISHMENTS GENERALLY

In accordance with the applicable provisions of this subchapter and pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate marijuana establishments within the municipality, including, but not limited to, adoption of the following types of regulations and restrictions. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Land use regulations. A municipality may adopt an ordinance providing land use regulations applicable to marijuana establishments within the municipality.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. General authorization or limitation of marijuana establishments. A municipality may adopt an ordinance generally authorizing the operation of some or all types of marijuana establishments within the municipality. A municipality may adopt an ordinance limiting the number of any type of marijuana establishment that may be authorized to operate within the municipality.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Municipal licensing requirements. A municipality may adopt an ordinance providing licensing requirements applicable to marijuana establishments within the municipality, which may include, but are not limited to, provisions establishing a municipal licensing fee schedule pursuant to Title 30-A, section 3702.

[2017, c. 409, Pt. A, §6 (NEW) .]

Notwithstanding any other provision of law to the contrary, a municipal ordinance regulating marijuana establishments within the municipality adopted pursuant to this subchapter is not subject to the requirements or limitations of Title 7, chapter 6 or 8-F. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§402. LOCAL AUTHORIZATION OF MARIJUANA ESTABLISHMENTS WITHIN MUNICIPALITIES

1. Request for local authorization to operate marijuana establishment in municipality prohibited unless authorized by municipal ordinance or warrant article. A person seeking to operate a marijuana establishment within a municipality may not request local authorization to operate the marijuana establishment pursuant to subsection 3 and a municipality may not accept as complete the person's request for local authorization unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including the type of marijuana establishment the person seeks to operate; and [2017, c. 409, Pt. A, §6 (NEW).]

B. The person has been issued by the department a conditional license to operate the marijuana establishment pursuant to section 205, subsection 3. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Minimum authorization criteria. A municipality may not authorize the operation of a marijuana establishment within the municipality if:

A. The marijuana establishment is proposed to be located within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality by ordinance or other regulation prohibits the location of marijuana establishments at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies. For the purposes of this paragraph, "school" includes a public school, as defined in Title 20-A, section 1, subsection 24, a private school, as defined in Title 20-A, section 1, subsection 22, a public preschool program, as defined in Title 20-A, section 1, subsection 23-A or any other educational facility that serves children from prekindergarten to grade 12; or [2017, c. 409, Pt. A, §6 (NEW).]

B. The person requesting local authorization to operate the marijuana establishment fails to demonstrate possession or entitlement to possession of the proposed licensed premises of the marijuana establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Local authorization required for operation of marijuana establishment within municipality. A person may not operate a marijuana establishment within a municipality unless:

A. The legislative body of the municipality has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality, including that type of marijuana establishment; [2017, c. 409, Pt. A, §6 (NEW).]

B. The person has obtained all applicable municipal approvals, permits or licenses that are required by the municipality for the operation of that type of marijuana establishment; and [2017, c. 409, Pt. A, §6 (NEW).]

C. The person has been issued by the department an active license to operate the marijuana establishment pursuant to section 205, subsection 4. [2017, c. 409, Pt. A, §6 (NEW).]

A municipality may certify to the department a person's compliance with the requirements of paragraph B on the form prepared and furnished by the department pursuant to section 205, subsection 4, paragraph B.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality fails to act on a person's request for local authorization to operate a marijuana establishment within the municipality, the municipality's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Appeal of municipal failure to act on request for local authorization. If a municipality whose legislative body has voted to adopt a new ordinance, amend an existing ordinance or approve a warrant article allowing some or all types of marijuana establishments within the municipality fails to act on a person's request for local authorization to operate a marijuana establishment within the municipality within 90 days after the date the person submitted the request to the municipality, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the municipality notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the municipality fails to act on the request within 180 days after the date the person submitted the request to the municipality.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§403. LOCAL AUTHORIZATION OF MARIJUANA ESTABLISHMENTS WITHIN TOWNS, PLANTATIONS AND TOWNSHIPS IN THE UNORGANIZED AND DEORGANIZED AREAS

1. Request for local authorization to operate marijuana establishment in town, plantation or township in unorganized and deorganized areas prohibited unless generally allowed by town or plantation or by county commissioners on behalf of township. A person seeking to operate a marijuana establishment within a town, plantation or township located within the unorganized and deorganized areas may not request local authorization pursuant to subsection 3 to operate the marijuana establishment and the town, plantation or, in the case of a township, the county commissioners of the county in which the township is located may not accept as complete the person's request for local authorization unless:

A. In the case of a town or plantation, the legislative body of the town or plantation has voted to allow some or all types of marijuana establishments within the town or plantation, including the type of marijuana establishment the person seeks to operate and the person has been issued by the department a conditional license to operate the marijuana establishment pursuant to section 205, subsection 3; or
[2017, c. 409, Pt. A, §6 (NEW).]

B. In the case of a township, the county commissioners of the county in which the township is located have voted to allow some or all types of marijuana establishments within the township, including the type of marijuana establishment the person seeks to operate and the person has been issued by the department a conditional license to operate the marijuana establishment pursuant to section 205, subsection 3. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Minimum authorization criteria. The Maine Land Use Planning Commission may not certify to the department local authorization of a marijuana establishment within a town, plantation or township located within the unorganized and deorganized areas pursuant to subsection 3 if:

A. The marijuana establishment is proposed to be located within 1,000 feet of the property line of a preexisting public or private school, except that, if the Maine Land Use Planning Commission prohibits the location of marijuana establishments within a town, plantation or township at distances less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that lesser distance applies. For the purposes of this paragraph, "school" has the same meaning as in section 402, subsection 2, paragraph A; or [2017, c. 409, Pt. A, §6 (NEW) .]

B. The person requesting local authorization to operate the marijuana establishment fails to demonstrate possession or entitlement to possession of the proposed licensed premises of the marijuana establishment pursuant to a lease, rental agreement or other arrangement for possession of the premises or by virtue of ownership of the premises. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Local authorization required for operation of marijuana establishment in town, plantation or township in unorganized and deorganized areas. A person may not operate a marijuana establishment within a town, plantation or township located within the unorganized and deorganized areas unless:

A. The legislative body of the town or plantation has voted to allow some or all types of marijuana establishments within the town or plantation, including that type of marijuana establishment, or, in the case of a township, the county commissioners of the county in which the township is located have voted to allow some or all types of marijuana establishments within the township, including that type of marijuana establishment; [2017, c. 409, Pt. A, §6 (NEW) .]

B. The person has obtained all applicable local approvals, permits or licenses not relating to land use planning and development that are required for the operation of the marijuana establishment by the town, plantation or, in the case of a township, the county commissioners of the county in which the township is located; [2017, c. 409, Pt. A, §6 (NEW) .]

C. The person has obtained all applicable approvals, permits or licenses relating to land use planning and development that are required by the Maine Land Use Planning Commission for the development and operation of the marijuana establishment; and [2017, c. 409, Pt. A, §6 (NEW) .]

D. The person has been issued by the department an active license to operate the marijuana establishment pursuant to section 205, subsection 4. [2017, c. 409, Pt. A, §6 (NEW) .]

The town, plantation or, in the case of a township, the county commissioners of the county in which the township is located, shall certify to the Maine Land Use Planning Commission that the person has obtained all applicable local approvals, permits or licenses not relating to land use planning and development as required under paragraph B. The Maine Land Use Planning Commission may certify to the department a person's compliance with the requirements of paragraphs B and C on the form prepared and furnished by the department pursuant to section 205, subsection 4, paragraph B.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Failure to act on request for local authorization. This subsection governs a failure to act on a request for local authorization by a town or a plantation or, in the case of a township, by the county commissioners of the county in which the township is located, or by the Maine Land Use Planning Commission.

A. If a town or plantation whose legislative body has voted to allow some or all types of marijuana establishments within the town or plantation fails to act on a person's request for local authorization under subsection 3, paragraph B, the town or plantation's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B. [2017, c. 409, Pt. A, §6 (NEW).]

B. If the county commissioners of the county in which a township is located, who have voted to allow some or all types of marijuana establishments within the township, fail to act on a person's request for local authorization under subsection 3, paragraph B, the county commissioners' failure to act does not satisfy the local authorization requirement of subsection 3, paragraph B. [2017, c. 409, Pt. A, §6 (NEW).]

C. If the Maine Land Use Planning Commission fails to act on a person's request for local authorization under subsection 3, paragraph C, the commission's failure to act does not satisfy the local authorization requirement of subsection 3, paragraph C. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Appeal of failure to act on request for local authorization. This subsection governs the appeal of a failure to act on a request for local authorization by a town or a plantation or, in the case of a township, by the county commissioners of the county in which the township is located, or by the Maine Land Use Planning Commission.

A. If a town or plantation whose legislative body has voted to allow some or all types of marijuana establishments within the town or plantation fails to act on a person's request for local authorization under subsection 3, paragraph B within 90 days after the date the person submitted the request to the town or plantation, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the town or plantation notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the town or plantation fails to act on the request within 180 days after the date the person submitted the request to the town or plantation. [2017, c. 409, Pt. A, §6 (NEW).]

B. If the county commissioners of the county in which a township is located, who have voted to allow some or all types of marijuana establishments within the township, fail to act on a person's request for local authorization under subsection 3, paragraph B within 90 days after the date the person submitted the request to the county commissioners, the request is deemed denied and the denial constitutes a final government action that may be appealed to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure, except that, if the county commissioners notify the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed denied and the denial constitutes a final government action only if the county commissioners fail to act on the request within 180 days after the date the person submitted the request to the county commissioners. [2017, c. 409, Pt. A, §6 (NEW).]

C. If the Maine Land Use Planning Commission fails to act on a person's request for local authorization under subsection 3, paragraph C within 90 days after the date the person submitted the request to the commission, the request is deemed denied and the denial constitutes a final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure, except that, if the commission notifies the person in writing prior to the expiration of the 90-day period that the request cannot be processed prior to the expiration of the 90-day period, the request is deemed

denied and the denial constitutes a final agency action only if the commission fails to act on the request within 180 days after the date the person submitted the request to the commission. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§404. AUTHORITY OF MAINE LAND USE PLANNING COMMISSION

This chapter or rules adopted pursuant to this chapter may not be construed to limit the authority of the Maine Land Use Planning Commission to regulate land use planning and development activities within the unorganized and deorganized areas of the State pursuant to Title 12, chapter 206-A. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§405. INFORMATION REQUESTS

A municipality may request that the department provide any information obtained by the department pursuant to the provisions of subchapter 2 or 3 that the municipality determines necessary for the administration of its local authorization process for marijuana establishments under this subchapter. Unless the information is confidential pursuant to law or rule, the department, in a timely manner, shall provide the information requested pursuant to this section. For the purposes of this section, "municipality" has the same meaning as in section 212. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§406. NOTIFICATION TO DEPARTMENT

A municipality shall notify the department within 14 days of the date the municipality authorizes the operation of a marijuana establishment within the municipality; issues or renews a license for the operation of a marijuana establishment within the municipality; withdraws authorization or suspends or revokes a license for the operation of a marijuana establishment within the municipality; approves relocation of the licensed premises of a marijuana establishment to the municipality; or approves a transfer of ownership interests in a license the licensed premises of which are located within the municipality. For the purposes of this section, "municipality" has the same meaning as in section 212. [2017, c. 409, Pt. A, §6 (NEW).]

The department shall provide the Bureau of Revenue Services with any information received pursuant to this section within 14 days of the date the department receives that information. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 5: OPERATING REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS

§501. OPERATION OF CULTIVATION FACILITIES

A cultivation facility must be operated in accordance with the provisions of this section and the rules adopted pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

1. Cultivation of adult use marijuana only for sale and distribution to other licensees. Except as otherwise provided in this section, a cultivation facility may cultivate adult use marijuana only for sale and distribution to products manufacturing facilities, marijuana stores or other cultivation facilities.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Retail sale of adult use marijuana without separate marijuana store license prohibited. Except as provided in subsection 3, a cultivation facility may not sell or offer to sell adult use marijuana, immature marijuana plants or seedlings to consumers unless the cultivation facility licensee obtains from the department a separate license to operate a marijuana store and otherwise complies with all applicable requirements under this chapter and the rules adopted pursuant to this chapter concerning the operation of marijuana stores. A cultivation facility may not give away adult use marijuana, adult use marijuana products or marijuana plants to a consumer.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Operation of nursery cultivation facilities. A nursery cultivation facility as described in section 301, subsection 5 must be operated in accordance with the provisions of this subsection and must comply with all other applicable requirements of this chapter and the rules adopted pursuant to this chapter.

A. A nursery cultivation facility may cultivate immature marijuana plants, seedlings and marijuana seeds only for sale and distribution to marijuana stores and to other cultivation facilities pursuant to paragraph C and to consumers pursuant to paragraph D. [2017, c. 409, Pt. A, §6 (NEW) .]

B. A nursery cultivation facility may cultivate mature marijuana plants only for the propagation of those mature marijuana plants or for the production of marijuana seeds by those mature marijuana plants, but the area within a nursery cultivation facility in which mature marijuana plants are cultivated must be physically separated from the area within the facility in which immature marijuana plants and seedlings are cultivated. A nursery cultivation facility may not sell, distribute or otherwise transfer to any person mature marijuana plants, marijuana flower or marijuana trim. [2017, c. 409, Pt. A, §6 (NEW) .]

C. A nursery cultivation facility may sell and distribute to marijuana stores and other cultivation facilities only immature marijuana plants, seedlings and marijuana seeds. Adult use marijuana sold by a nursery cultivation facility to marijuana stores and other cultivation facilities is subject to the excise tax imposed pursuant to subchapter 10, which must be paid to the department as required by subsection 9. [2017, c. 409, Pt. A, §6 (NEW) .]

D. A nursery cultivation facility may sell to consumers only immature marijuana plants, seedlings, marijuana seeds and agricultural or gardening supplies relating to the cultivation of marijuana. Sales to consumers by a nursery cultivation facility:

- (1) Must be conducted within a portion of the licensed premises of the nursery cultivation facility that is dedicated to consumer sales of immature marijuana plants, seedlings, marijuana seeds and agricultural or gardening supplies relating to the cultivation of marijuana. A nursery cultivation facility licensee shall ensure that the portion of the licensed premises of the nursery cultivation facility that is dedicated to consumer sales complies with all applicable requirements of this chapter and the rules adopted pursuant to this chapter concerning the operation of marijuana stores; and
- (2) Are subject to the sales tax imposed pursuant to Title 36, section 1811 and must be collected and remitted as required by subsection 9. [2017, c. 409, Pt. A, §6 (NEW) .]

E. The department shall adopt rules regulating the operation of nursery cultivation facilities. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Marijuana extraction without separate products manufacturing facility license prohibited. A cultivation facility may not engage in the manufacture of marijuana concentrate by marijuana extraction unless the cultivation facility licensee has obtained from the department a separate license to operate a products manufacturing facility and otherwise meets the requirements under this chapter and the rules adopted pursuant to this chapter concerning the operation of a products manufacturing facility and concerning marijuana extraction.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Use of shared facility for cultivation of adult use marijuana and marijuana for medical use. Subject to the requirements of this subsection and the rules adopted pursuant to this subsection, a cultivation facility licensee that is also a registered caregiver or a registered dispensary may cultivate adult use marijuana pursuant to this chapter within the same facility in which the licensee also cultivates marijuana for medical use pursuant to the Maine Medical Use of Marijuana Act.

A. A cultivation facility licensee that cultivates marijuana under this subsection must comply with all applicable requirements of this chapter and the rules adopted pursuant to this chapter concerning the operation of cultivation facilities. [2017, c. 409, Pt. A, §6 (NEW) .]

B. Except as provided in paragraph C, the areas of the shared facility in which adult use marijuana is cultivated must be separated from the areas of the shared facility in which marijuana for medical use is cultivated in a manner that provides for a visually conspicuous delineation of the physical space between the cultivation area for adult use marijuana and the cultivation area for marijuana for medical use. [2017, c. 409, Pt. A, §6 (NEW) .]

C. The following items or areas within the shared facility may be shared for both the cultivation of adult use marijuana and the cultivation of marijuana for medical use:

(1) Cultivation-related and noncultivation-related equipment, except that cultivation-related equipment may not be simultaneously used for the cultivation of adult use marijuana and the cultivation of marijuana for medical use;

(2) Cultivation-related and noncultivation-related supplies or products not containing marijuana or marijuana products and the storage areas for those supplies or products; and

(3) General office space, bathrooms, entryways and walkways. [2017, c. 409, Pt. A, §6 (NEW) .]

D. Each marijuana plant within the shared facility must be tagged or otherwise identified as an adult use marijuana plant or a marijuana plant for medical use. [2017, c. 409, Pt. A, §6 (NEW) .]

E. The department shall adopt rules governing the use of a shared facility by a cultivation facility licensee that is also a registered caregiver or a registered dispensary, which must include, but are not limited to, requirements for the maintenance of a log or other record relating to the use of the shared facility space, shared equipment and shared supplies or products to ensure compliance with the requirements of this chapter and the rules adopted pursuant to this chapter and the requirements of the Maine Medical Use of Marijuana Act. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

6. Limited authorization for sale of marijuana plants and marijuana seeds by registered caregiver or registered dispensary to cultivation facility licensee. Notwithstanding any other provision of law to the contrary and subject to the requirements and restrictions of this section, for a period starting on the date that the department issues the first active cultivation facility license under section 205, subsection 4 and ending 2 years after that date, a registered caregiver or a registered dispensary may sell marijuana plants and marijuana seeds to a cultivation facility licensee that is also a registered caregiver or a registered dispensary and a cultivation facility licensee that is also a registered caregiver or a registered dispensary may purchase marijuana plants and marijuana seeds from a registered caregiver or a registered dispensary. The department

shall post on its publicly accessible website information regarding the date on which the department issues the first active cultivation facility license and the date that is 2 years after the date the first active cultivation facility license is issued.

A. Beginning on the date that the department issues the first active cultivation facility license and ending 2 years after that date, in an active cultivation facility license issued to any licensee that has demonstrated to the department's satisfaction that the licensee is also a registered caregiver or a registered dispensary, the department shall include language authorizing the licensee, at any time within the licensee's first year of licensure, to purchase an unlimited number of marijuana plants and marijuana seeds from registered caregivers and registered dispensaries. This authorization may not be included in any license issued upon renewal under section 209. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

B. A cultivation facility licensee authorized pursuant to paragraph A to purchase marijuana plants and marijuana seeds from registered caregivers and registered dispensaries that transacts such a purchase shall pay to the department the excise taxes that would have been imposed under subchapter 10 on the sale of the marijuana plants and marijuana seeds if the marijuana plants and marijuana seeds had been sold by a cultivation facility licensee to another licensee. In addition to payment of the required excise taxes under this paragraph, the cultivation facility licensee shall provide the department with an accounting of the transaction, which must include information on the registered caregiver or registered dispensary from which the licensee purchased the marijuana plants and marijuana seeds, the number of mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds purchased in the transaction and any other information required by the department by rule. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

C. A cultivation facility licensee authorized pursuant to paragraph A to purchase marijuana plants and marijuana seeds from registered caregivers and registered dispensaries may purchase marijuana plants and marijuana seeds from more than one registered caregiver or registered dispensary and may transact more than one purchase of marijuana plants and marijuana seeds from a registered caregiver or registered dispensary. A registered caregiver or registered dispensary may not sell marijuana plants and marijuana seeds to more than one cultivation facility licensee authorized pursuant to paragraph A to purchase marijuana plants and marijuana seeds from registered caregivers and registered dispensaries and may not transact more than one sale of marijuana plants and marijuana seeds to a cultivation facility licensee authorized to make such purchases pursuant to paragraph A. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

D. A cultivation facility licensee that violates this subsection or the rules adopted pursuant to this subsection is subject to the imposition by the department of monetary penalties, a license revocation or suspension and an order directing the destruction of unauthorized marijuana plants and marijuana seeds pursuant to subchapter 8 in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules. A registered caregiver or registered dispensary that violates paragraph C is subject to the revocation of its registration or other applicable penalty under the Maine Medical Use of Marijuana Act in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

The department shall adopt rules to implement this subsection.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV)]

7. Requirements for outdoor cultivation. This subsection governs outdoor cultivation operations by a cultivation facility licensee.

A. An outdoor cultivation area within the licensed premises of a cultivation facility may not share a common wall or fence with an outdoor cultivation area within the licensed premises of a different cultivation facility. [2017, c. 409, Pt. A, §6 (NEW).]

B. The outer boundary of an outdoor cultivation area within the licensed premises of a cultivation facility must be separated by at least 20 feet from the outer boundary of an outdoor cultivation area within the licensed premises of a different cultivation facility. [2017, c. 409, Pt. A, §6 (NEW).]

C. The department shall adopt rules regarding the outdoor cultivation of adult use marijuana by a cultivation facility licensee, including, but not limited to, security requirements specific to outdoor cultivation operations and requirements for shielding outdoor cultivation operations from public view. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Sampling by other licensees. A cultivation facility licensee may provide samples of adult use marijuana cultivated at the licensed premises to a products manufacturing facility licensee or a marijuana store licensee for business or marketing purposes only. Samples provided by a cultivation facility licensee to another licensee under this subsection may not be consumed within the licensed premises of the cultivation facility. This subsection does not apply to a nursery cultivation facility licensee.

[2017, c. 409, Pt. A, §6 (NEW) .]

9. Excise tax; sales tax. A cultivation facility licensee shall ensure that the tax imposed on the sale of adult use marijuana by a cultivation facility to other licensees pursuant to subchapter 10 is paid to the department. A nursery cultivation facility licensee shall ensure that the tax imposed on the sale of adult use marijuana and adult use marijuana products under Title 36, section 1811 is collected and remitted in accordance with the requirements of Title 36, Part 3 and the rules adopted pursuant to Title 36, Part 3.

[2017, c. 409, Pt. A, §6 (NEW) .]

10. Tracking. In accordance with the requirements of section 105, a cultivation facility licensee shall track the adult use marijuana it cultivates from immature marijuana plant to the point at which the marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a products manufacturing facility, a testing facility, a marijuana store or another cultivation facility or is disposed of or destroyed.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§502. OPERATION OF PRODUCTS MANUFACTURING FACILITIES

A products manufacturing facility must be operated in accordance with the provisions of this section and the rules adopted pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

1. Manufacture only for sale or distribution to other licensees. Except as otherwise provided in this section, a products manufacturing facility may manufacture adult use marijuana and adult use marijuana products only for sale or distribution to marijuana stores or other products manufacturing facilities.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Retail sale of adult use marijuana or adult use marijuana products without separate marijuana store license prohibited. A products manufacturing facility may not sell or offer to sell adult use marijuana or adult use marijuana products to consumers unless the products manufacturing facility licensee obtains from the department a separate license to operate a marijuana store and otherwise complies with all applicable

requirements under this chapter and the rules adopted pursuant to this chapter concerning the operation of marijuana stores. A products manufacturing facility may not give away adult use marijuana, adult use marijuana products or marijuana plants to a consumer.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Cultivation of marijuana without separate cultivation facility license prohibited. A products manufacturing facility shall purchase all marijuana necessary for its manufacturing processes from a cultivation facility and may not engage in the cultivation of marijuana unless the products manufacturing facility licensee obtains from the department a separate license to operate a cultivation facility and otherwise meets all applicable requirements under this chapter and under the rules adopted pursuant to this chapter concerning the operation of cultivation facilities.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Use of shared facility for manufacture of adult use marijuana products and marijuana products for medical use. Subject to the requirements of this subsection and the rules adopted pursuant to this subsection, a products manufacturing facility licensee that is also a registered caregiver or a registered dispensary may manufacture adult use marijuana and adult use marijuana products pursuant to this chapter within the same facility in which the licensee also manufactures marijuana concentrate and marijuana products for medical use pursuant to the Maine Medical Use of Marijuana Act.

A. A products manufacturing facility licensee that manufactures adult use marijuana and adult use marijuana products within the same facility in which the licensee also manufactures marijuana concentrate and marijuana products for medical use must comply with all applicable requirements of this chapter and the rules adopted pursuant to this chapter concerning the operation of products manufacturing facilities. [2017, c. 409, Pt. A, §6 (NEW).]

B. The following items or areas within the shared facility may be shared for both the manufacturing of adult use marijuana and adult use marijuana products and the manufacturing of marijuana concentrate and marijuana products for medical use:

- (1) Manufacturing-related and nonmanufacturing-related equipment, except that manufacturing-related equipment may not be simultaneously used for the manufacturing of adult use marijuana and adult use marijuana products and the manufacturing of marijuana concentrate and marijuana products for medical use;
- (2) Manufacturing-related and nonmanufacturing-related supplies or products not containing marijuana or marijuana products and the storage areas for those supplies or products; and
- (3) General office space, bathrooms, entryways and walkways. [2017, c. 409, Pt. A, §6 (NEW) .]

C. The department shall adopt rules governing the use of a shared facility by a products manufacturing facility licensee that is also a registered caregiver or a registered dispensary, including, but not limited to, requirements for the maintenance of a log or other record relating to the use of the shared facility space, shared equipment and shared supplies or products to ensure compliance with the requirements of this chapter and the rules adopted pursuant to this chapter and the requirements of the Maine Medical Use of Marijuana Act. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

5. Sampling by employees. A products manufacturing facility licensee and its employees may sample adult use marijuana and adult use marijuana products manufactured at the licensed premises of the products manufacturing facility for the purposes of product quality control and product research and development only. The licensee may not otherwise allow the consumption of adult use marijuana or adult use marijuana products within the licensed premises. The sampling of adult use marijuana and adult use marijuana products

authorized under this subsection may not involve the consumption of marijuana or marijuana products by means of smoking the marijuana or marijuana products. For the purposes of this subsection, "smoking" has the same meaning as in Title 22, section 1541, subsection 6.

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Sampling by other licensees. A products manufacturing facility licensee may provide samples of adult use marijuana and adult use marijuana products manufactured at the licensed premises to another products manufacturing facility licensee or to a marijuana store licensee for business or marketing purposes only. Samples provided by a products manufacturing facility to other licensees under this subsection may not be consumed within the licensed premises of the products manufacturing facility.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. Marijuana extraction. Subject to the requirements and restrictions of this subsection, a products manufacturing facility licensee may manufacture marijuana concentrate by marijuana extraction using water, lipids, gases, solvents or other chemicals or chemical processes.

A. A products manufacturing facility licensee may engage in marijuana extraction using a solvent or other chemical or chemical process that is not and does not involve an inherently hazardous substance if:

- (1) The solvent or other chemical or chemical process is listed by the department by rule as approved for use in marijuana extraction; or
- (2) The products manufacturing facility licensee requests and obtains from the department written approval to engage in marijuana extraction using a solvent or other chemical or chemical process that is not and does not involve an inherently hazardous substance and that is not listed by the department by rule as approved for use in marijuana extraction.

The department shall adopt by rule a list of those solvents or other chemicals or chemical processes that are not and do not contain an inherently hazardous substance that the department approves for use in marijuana extraction by products manufacturing facilities. [2017, c. 409, Pt. A, §6 (NEW) .]

B. A products manufacturing facility licensee may not engage in marijuana extraction involving the use of any inherently hazardous substance unless:

- (1) The licensee submits to the department a request for approval of the marijuana extraction method the facility plans to engage in that includes a description of the proposed marijuana extraction method and a certification from an industrial hygienist or professional engineer following a review of the facility's storage, preparation, electrical, gas monitoring, fire suppression and exhaust systems; and
- (2) The department approves in writing the proposed marijuana extraction method.

The department, within 14 days of receipt of a request for approval under this paragraph, shall notify the products manufacturing facility licensee in writing whether the request is approved or denied. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Compliance with packaging, labeling and health and safety requirements. All adult use marijuana and adult use marijuana products sold or distributed by a products manufacturing facility must meet all applicable packaging, labeling and health and safety requirements of subchapter 7 and the rules adopted pursuant to subchapter 7.

[2017, c. 409, Pt. A, §6 (NEW) .]

9. Compliance with sanitary standards. All areas within the licensed premises of a products manufacturing facility in which adult use marijuana and adult use marijuana products are manufactured must meet all sanitary standards specified in rules adopted by the department.

[2017, c. 409, Pt. A, §6 (NEW) .]

10. Commercial kitchen license. A products manufacturing facility licensee must obtain a commercial kitchen license for any area within the licensed premises of the products manufacturing facility in which adult use marijuana and adult use marijuana products are manufactured and for which the department requires a products manufacturing facility licensee to obtain a commercial kitchen license. The department shall adopt rules requiring certain areas within the licensed premises of a products manufacturing facility to be licensed as commercial kitchens based upon the types of manufacturing processes conducted within those areas.

[2017, c. 409, Pt. A, §6 (NEW) .]

11. Refrigeration. A products manufacturing facility licensee shall store and transport in a refrigerated environment all adult use marijuana and adult use marijuana products that require refrigeration to prevent spoilage. The department shall adopt rules regarding the storage and transportation of adult use marijuana and adult use marijuana products that require refrigeration to prevent spoilage.

[2017, c. 409, Pt. A, §6 (NEW) .]

12. Testing. A products manufacturing facility licensee may test marijuana and marijuana products within its licensed premises for research and development purposes, quality control purposes and health and safety purposes. Testing performed by a products manufacturing facility licensee within its licensed premises is not subject to the requirements for testing facilities under section 503 but does not satisfy the mandatory testing requirements of subchapter 6.

[2017, c. 409, Pt. A, §6 (NEW) .]

13. Tracking. In accordance with the requirements of section 105, a products manufacturing facility licensee shall track the adult use marijuana it uses in its manufacturing processes from the point the marijuana is delivered or transferred to the products manufacturing facility by a cultivation facility to the point the marijuana or marijuana concentrate or an adult use marijuana product produced using the marijuana or marijuana concentrate is delivered or transferred to another products manufacturing facility, a testing facility or a marijuana store or is disposed of or destroyed.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§503. OPERATION OF TESTING FACILITIES

A testing facility must be operated in accordance with the provisions of this section and the rules adopted pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Development, research and testing of marijuana, marijuana products and other substances. A testing facility may develop, research and test marijuana and marijuana products for:

A. That facility; [2017, c. 409, Pt. A, §6 (NEW) .]

B. Another licensee; [2017, c. 409, Pt. A, §6 (NEW) .]

C. A person who intends to use the marijuana or marijuana product for personal use as authorized under chapter 3; or [2017, c. 409, Pt. A, §6 (NEW) .]

D. A qualifying patient, a caregiver, a registered caregiver or a registered dispensary. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV).]

Neither this chapter nor the rules adopted pursuant to this chapter prevent a testing facility from developing, researching or testing substances that are not marijuana or marijuana products for that facility or for another person.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

2. Certification; accreditation and provisional licensure; compliance with operational and technical requirements. A testing facility may not commence or continue operation unless the testing facility:

A. Is certified for operation by the Department of Health and Human Services, Maine Center for Disease Control and Prevention, in accordance with rules adopted by the department after consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention, which must allow for inspection of the proposed or operational testing facility by the department and the Department of Health and Human Services, Maine Center for Disease Control and Prevention; [2017, c. 409, Pt. A, §6 (NEW) .]

B. Except as otherwise provided in this paragraph, is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a 3rd-party accrediting body or is certified, registered or accredited by an organization approved by the department. The department shall adopt rules regarding the scope of certification, registration or accreditation required for licensure of a testing facility.

(1) The department may issue a full testing facility license to an applicant that meets all applicable requirements of this chapter and rules adopted pursuant to this chapter and that has obtained accreditation pursuant to standard ISO/IEC 17025 of the International Organization for Standardization from a 3rd-party accrediting body or that is certified, registered or accredited by an approved organization.

(2) The department may issue a provisional testing facility license to an applicant that otherwise meets all applicable requirements of this chapter and rules adopted pursuant to this chapter and that has applied for but not yet obtained accreditation from a 3rd-party accrediting body or that has applied for but not yet obtained certification, registration or accreditation from an approved organization. The department may not renew a provisional testing facility license more than once.

An active full or provisional testing facility license may not be issued by the department to an applicant until the applicant satisfies all applicable requirements of section 205, subsection 4; and [2017, c. 409, Pt. A, §6 (NEW) .]

C. Is determined by the department to meet all operational and technical requirements for testing facilities under this chapter and the rules adopted under this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Compliance with testing protocols, standards and criteria. A testing facility shall follow all testing protocols, standards and criteria adopted by rule by the department for the testing of different forms of marijuana and marijuana products; determining batch size; sampling; testing validity; and approval and disapproval of tested marijuana and marijuana products.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Remediation and retesting. If a testing facility determines that a sample of adult use marijuana or an adult use marijuana product has failed a mandatory test required under section 602, the testing facility shall offer to the owner of that sample an opportunity for remediation and retesting in accordance with rules adopted by the department.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Record keeping. A testing facility shall maintain records of all business transactions and testing results in accordance with the record-keeping requirements of section 511 and section 602, subsection 2 and in accordance with applicable standards for licensing and accreditation under subsection 2 and testing protocols, standards and criteria adopted by the department under subsection 3.

[2017, c. 409, Pt. A, §6 (NEW) .]

6. Disposal of marijuana and marijuana products. A testing facility shall dispose of or destroy used, unused and waste marijuana and marijuana products in accordance with rules adopted by the department.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. Notification of test results. A testing facility shall notify the department of test results in accordance with section 603.

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Independence of testing facility interest. A person with an interest in a testing facility may not be a caregiver or a registered caregiver or have an interest in a registered dispensary, a marijuana store license, a cultivation facility license or a products manufacturing facility license, but may hold or have an interest in multiple testing facility licenses. A person who is a caregiver or a registered caregiver or who has an interest in a registered dispensary, a marijuana store license, a cultivation facility license or a products manufacturing facility license may not have an interest in a testing facility license. As used in this subsection, "interest" has the same meaning as in section 205, subsection 2, paragraph B.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

9. Tracking. In accordance with the requirements of section 105, a testing facility licensee shall track all adult use marijuana and adult use marijuana products it receives from a licensee for testing purposes from the point at which the marijuana or marijuana products are delivered or transferred to the testing facility to the point at which the marijuana or marijuana products are disposed of or destroyed.

[2017, c. 409, Pt. A, §6 (NEW) .]

10. Rules. The department shall adopt rules regarding the testing of marijuana and marijuana products by testing facilities pursuant to this chapter, including, but not limited to, rules establishing acceptable testing and research practices for testing facilities, including, but not limited to, provisions relating to testing practices, methods and standards; remediation and retesting procedures; quality control analysis; equipment certification and calibration; chemical identification; testing facility record-keeping, documentation and business practices; disposal of used, unused and waste marijuana and marijuana products; and reporting of test results. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV)

§504. OPERATION OF MARIJUANA STORES

A marijuana store must be operated in accordance with the provisions of this section and the rules adopted pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

1. Products authorized for sale. Except as provided in subsection 2, a marijuana store may sell:

A. Adult use marijuana, adult use marijuana products and marijuana paraphernalia; [2017, c. 409, Pt. A, §6 (NEW).]

B. Immature marijuana plants and seedlings; [2017, c. 409, Pt. A, §6 (NEW).]

C. Consumable products not containing marijuana, including, but not limited to, sodas, candies and baked goods; and [2017, c. 409, Pt. A, §6 (NEW).]

D. Any other nonconsumable products, including, but not limited to, apparel and marijuana-related products. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Prohibitions. A marijuana store may not:

A. Give away adult use marijuana, adult use marijuana products or marijuana plants or sell or give away mature marijuana plants or consumable products containing tobacco or alcohol that do not contain marijuana; [2017, c. 409, Pt. A, §6 (NEW).]

B. Except for nonedible adult use marijuana products that do not contain THC, sell to any person in any individual sales transaction an amount of adult use marijuana, adult use marijuana products or immature marijuana plants or seedlings that exceeds the personal adult use limitations of section 1501, subsection 1; [2017, c. 409, Pt. A, §6 (NEW).]

C. Sell adult use marijuana, adult use marijuana products or marijuana plants using:

(1) An automated dispensing or vending machine;

(2) A drive-through sales window;

(3) An Internet-based sales platform; or

(4) A delivery service; or [2017, c. 409, Pt. A, §6 (NEW).]

D. Sell adult use marijuana or adult use marijuana products to a person who is visibly intoxicated. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Compliance with packaging, labeling and health and safety requirements. All adult use marijuana and adult use marijuana products sold or offered for sale at a marijuana store must meet all applicable packaging, labeling and health and safety requirements of subchapter 7 and the rules adopted under subchapter 7.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Verification of purchaser's age. A person must be 21 years of age or older to make a purchase in a marijuana store. A marijuana store may not sell any item to a person under 21 years of age.

A. Prior to initiating a sale, an employee of the marijuana store licensee shall verify that the purchaser has a valid government-issued photographic identification card, or other acceptable photographic identification, demonstrating that the purchaser is 21 years of age or older. [2017, c. 409, Pt. A, §6 (NEW).]

B. The department shall by rule determine the forms of photographic identification that a marijuana store licensee may accept when verifying a purchaser's age. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Prohibition on use of shared facility for retail sale of adult use marijuana and adult use marijuana products and marijuana and marijuana products for medical use. A marijuana store licensee that is also a registered caregiver or a registered dispensary may not sell or offer for sale to consumers adult use marijuana and adult use marijuana products pursuant to this chapter within the same facility or building in which the licensee also sells or offers for sale to qualifying patients marijuana and marijuana products for medical use pursuant to the Maine Medical Use of Marijuana Act.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

6. Signs, marketing and advertising. All signs used by and all marketing and advertising conducted by or on behalf of a marijuana store must comply with the requirements of section 702 and the rules adopted pursuant to section 702.

[2017, c. 409, Pt. A, §6 (NEW) .]

7. Sales tax. A marijuana store licensee shall ensure that the tax imposed on the sale of adult use marijuana and adult use marijuana products to a consumer pursuant to Title 36, section 1811 is collected and remitted in accordance with the requirements of Title 36, Part 3 and the rules adopted pursuant to Title 36, Part 3.

[2017, c. 409, Pt. A, §6 (NEW) .]

8. Tracking. In accordance with the requirements of section 105, a marijuana store licensee shall track all adult use marijuana and adult use marijuana products from the point at which the marijuana or marijuana products are delivered or transferred to the marijuana store by a cultivation facility or a products manufacturing facility to the point at which the marijuana or marijuana products are sold to a consumer, delivered or transferred to a testing facility or disposed of or destroyed.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§505. TRANSPORTATION OF ADULT USE MARIJUANA AND ADULT USE MARIJUANA PRODUCTS

A licensee and its employees may transport adult use marijuana and adult use marijuana products between the licensed premises of the licensee and the licensed premises of any other marijuana establishment. All transportation of adult use marijuana and adult use marijuana products must be documented by the licensee or an employee of the licensee in accordance with rules adopted by the department. The department shall adopt rules regarding the transportation of adult use marijuana and adult use marijuana products by licensees under this chapter. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§506. EMPLOYMENT OF PERSONS UNDER 21 YEARS OF AGE PROHIBITED

A licensee may not employ any person under 21 years of age. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§507. ENTRY INTO MARIJUANA ESTABLISHMENT BY PERSONS UNDER 21 YEARS OF AGE PROHIBITED

A person under 21 years of age may not enter the licensed premises of a marijuana establishment. A licensee shall ensure that persons under 21 years of age do not enter its licensed premises. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§508. USE OF ADULT USE MARIJUANA AND ADULT USE MARIJUANA PRODUCTS WITHIN LICENSED PREMISES

1. Employee use of marijuana or marijuana products for medical use. A licensee may allow an employee who is a qualifying patient to privately consume marijuana and marijuana products for medical use within its licensed premises.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Employee use of adult use marijuana or adult use marijuana products. Except as otherwise provided in this chapter, a licensee may not allow an employee to consume adult use marijuana or adult use marijuana products within its licensed premises or while the employee is otherwise engaged in activities within the course and scope of employment.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Other use of adult use marijuana or adult use marijuana products. Except as otherwise provided in this chapter:

A. A person may not consume adult use marijuana or adult use marijuana products within the licensed premises of a marijuana establishment; and [2017, c. 409, Pt. A, §6 (NEW) .]

B. A licensee may not allow any person to consume adult use marijuana or adult use marijuana products within its licensed premises. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§509. LICENSE TO BE CONSPICUOUSLY DISPLAYED

A licensee shall ensure that the licensee's license, or a copy of that license, is at all times conspicuously displayed within its licensed premises. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§510. LIMITED ACCESS AREAS

A person may not enter or remain in any limited access area unless the person displays an individual identification card issued by the department pursuant to section 106. A licensee shall ensure that all areas of ingress and egress to limited access areas within its licensed premises are conspicuously marked and that a person is not allowed to enter or remain in any limited access area without displaying the person's individual identification card issued by the department pursuant to section 106. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§511. RECORD KEEPING AND INSPECTION OF RECORDS; AUDITS

1. Record keeping; inspection of records. A licensee shall maintain a complete set of all records of the licensee's business transactions, which must be open to inspection and examination by the department upon demand and without notice during all business hours. Records must be maintained by a licensee at a minimum for a period comprising the current tax year and the 2 immediately preceding tax years.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Additional information may be required. The department may require a licensee to furnish any additional information necessary for the proper administration of this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Audit. The department may require a licensee to submit to an audit of the licensee's business records. If the department requires a licensee to submit to an audit, the licensee shall provide the auditor selected by the department with access to all business records of the licensee and the cost of the audit must be paid by the licensee.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Confidentiality. This subsection governs the confidentiality of records under this section.

A. Documents of a licensee inspected or examined by the department pursuant to this section are confidential and may not be disclosed except as needed in a civil or criminal proceeding to enforce any provision of this chapter and the rules adopted pursuant to this chapter or any criminal law. [2017, c. 409, Pt. A, §6 (NEW).]

B. Audit working papers are confidential and may not be disclosed to any person outside the department, except that audit working papers may be disclosed to the licensee subject to the audit. A final audit report is a public record for the purposes of Title 1, chapter 13, subchapter 1. For the purposes of this paragraph, "audit working papers" means all documentation and other information acquired, prepared or maintained by the department and the auditor selected by the department during the conduct of the audit, including, but not limited to, draft reports and portions of draft reports. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§512. INSPECTION OF LICENSED PREMISES; TESTING AND SAMPLING FOR PRODUCT QUALITY CONTROL

1. Inspections. A licensee shall submit to an inspection of its licensed premises, including, but not limited to, any places of storage and any locked areas, upon demand and without notice during all business hours and other times of apparent activity by the department, a criminal justice agency or an official authorized by the municipality in which the licensed premises are located.

For the purposes of this subsection, "municipality" has the same meaning as in section 212.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Testing and sampling for product quality control. A licensee shall submit to the sampling and testing of adult use marijuana or adult use marijuana products within its possession, upon demand and without notice during all business hours by the department for the purposes of product quality control. The department shall adopt rules governing the sampling and testing of adult use marijuana and adult use marijuana products under this subsection, consistent with the requirements of subchapter 6. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§513. LICENSEE COMPLIANCE WITH REGULATORY REQUIREMENTS

A licensee, as a condition of licensure under this chapter, shall comply with all applicable provisions of this chapter and all applicable provisions of the rules adopted pursuant to this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

Subchapter 6: TESTING OF MARIJUANA AND MARIJUANA PRODUCTS

§601. TESTING PROGRAM ESTABLISHED

The department shall establish a testing program for adult use marijuana and adult use marijuana products. Except as otherwise provided in this subchapter, the program must require a licensee, prior to selling or distributing adult use marijuana or an adult use marijuana product to a consumer or to another licensee, to submit the marijuana or marijuana product to a testing facility for testing to ensure that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required and to ensure correct labeling. The department shall adopt rules establishing a testing program pursuant to this section, rules identifying the types of contaminants that are injurious to health for which marijuana and marijuana products must be tested under this subchapter and rules regarding the maximum level of allowable contamination for each contaminant. Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§602. MANDATORY TESTING

A licensee may not sell or distribute adult use marijuana or an adult use marijuana product to a consumer or to another licensee under this chapter unless the marijuana or marijuana product has been tested pursuant to this subchapter and the rules adopted pursuant to this subchapter and that mandatory testing has demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required. [2017, c. 409, Pt. A, §6 (NEW).]

1. Scope of mandatory testing. Mandatory testing of adult use marijuana and adult use marijuana products under this section must include, but is not limited to, testing for:

- A. Residual solvents, poisons and toxins; [2017, c. 409, Pt. A, §6 (NEW).]
- B. Harmful chemicals; [2017, c. 409, Pt. A, §6 (NEW).]
- C. Dangerous molds and mildew; [2017, c. 409, Pt. A, §6 (NEW).]
- D. Harmful microbes, including, but not limited to, *Escherichia coli* and salmonella; [2017, c. 409, Pt. A, §6 (NEW).]
- E. Pesticides, fungicides and insecticides; and [2017, c. 409, Pt. A, §6 (NEW).]
- F. THC potency, homogeneity and cannabinoid profiles to ensure correct labeling. [2017, c. 409, Pt. A, §6 (NEW).]

The department may temporarily waive mandatory testing requirements under this section for any contaminant or factor for which the department has determined that there exists no licensed testing facility in the State capable of and certified to perform such testing.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Record keeping. A licensee shall maintain a record of all mandatory testing that includes a description of the adult use marijuana or adult use marijuana product provided to the testing facility, the identity of the testing facility and the results of the mandatory test.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Testing process, protocols and standards. The department shall establish by rule processes, protocols and standards for mandatory and other testing of marijuana and marijuana products that conform with the best practices generally used within the marijuana industry.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§603. NOTIFICATION REQUIREMENTS

1. Notification of testing results required. If the results of a mandatory test conducted pursuant to section 602 indicate that the tested adult use marijuana or adult use marijuana product exceeds the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required, the testing facility immediately shall quarantine, document and properly destroy the marijuana or marijuana product, except when the owner of the tested marijuana or marijuana product has successfully undertaken remediation and retesting, and within 30 days of completing the test shall notify the department of the test results.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Notification of testing results not required. A testing facility is not required to notify the department of the results of any test:

A. Conducted on adult use marijuana or an adult use marijuana product at the direction of a licensee pursuant to section 602 that demonstrates that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required; [2017, c. 409, Pt. A, §6 (NEW).]

B. Conducted on adult use marijuana or an adult use marijuana product at the direction of a licensee for research and development purposes only, so long as the licensee notifies the testing facility prior to the performance of the test that the testing is for research and development purposes only; [2017, c. 409, Pt. A, §6 (NEW).]

C. Conducted on marijuana or a marijuana product at the direction of a person who is not a licensee; or [2017, c. 409, Pt. A, §6 (NEW).]

D. Conducted on a substance that is not marijuana or a marijuana product. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§604. SAMPLING FOR TESTING

If a test to be performed by a testing facility is a mandatory test under section 602, an employee or designee of the testing facility must perform the sampling required for the test. If a test to be performed by a testing facility is not a mandatory test, the owner of the marijuana or marijuana product, or a designee of the owner, may perform the sampling required for the test. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§605. ADDITIONAL TESTING NOT REQUIRED

Notwithstanding section 602, a licensee may sell or furnish to a consumer or to another licensee adult use marijuana or an adult use marijuana product that the licensee has not submitted for testing in accordance with this subchapter and rules adopted pursuant to this subchapter if: [2017, c. 409, Pt. A, §6 (NEW) .]

1. Prior testing. The marijuana or marijuana product has previously undergone testing in accordance with this subchapter and rules adopted pursuant to this subchapter at the direction of another licensee and that testing demonstrated that the marijuana or marijuana product does not exceed the maximum level of allowable contamination for any contaminant that is injurious to health and for which testing is required;

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Proper documentation. The mandatory testing process and the test results for the marijuana or marijuana product are documented in accordance with the requirements of this chapter and all applicable rules adopted pursuant to this chapter;

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Tracking maintained. Tracking from immature marijuana plant to the point of retail sale has been maintained for the marijuana or marijuana product and transfers of the marijuana or marijuana product to another licensee or to a consumer can be easily identified; and

[2017, c. 409, Pt. A, §6 (NEW) .]

4. No subsequent processing, manufacturing or alteration. Since the performance of the prior testing under subsection 1, the marijuana or marijuana product has not undergone any further processing, manufacturing or alteration, other than the packaging and labeling of the marijuana or marijuana product for sale.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§606. COORDINATION WITH TESTING PROGRAM AND RULES FOR MARIJUANA AND MARIJUANA PRODUCTS FOR MEDICAL USE

In adopting rules and regulating the testing of adult use marijuana and adult use marijuana products under this subchapter, the department shall ensure that, when necessary and practicable, the regulation of the testing of adult use marijuana and adult use marijuana products under this subchapter is consistent with the regulation of the testing of marijuana and marijuana products for medical use under the Maine Medical Use of Marijuana Act. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

Subchapter 7: LABELING AND PACKAGING; SIGNS, ADVERTISING AND MARKETING; HEALTH AND SAFETY

§701. LABELING AND PACKAGING

1. Labeling requirements. Adult use marijuana and adult use marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter must be labeled with the following information, as applicable based on the marijuana or marijuana product to be sold:

A. The license numbers of the cultivation facility, the products manufacturing facility and the marijuana store where the adult use marijuana or adult use marijuana product was cultivated, manufactured and offered for sale; [2017, c. 409, Pt. A, §6 (NEW) .]

B. An identity statement and universal symbol; [2017, c. 409, Pt. A, §6 (NEW) .]

C. Health and safety warning labels as required by rules adopted by the department after consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention; [2017, c. 409, Pt. A, §6 (NEW) .]

D. The batch number; [2017, c. 409, Pt. A, §6 (NEW) .]

E. A net weight statement; [2017, c. 409, Pt. A, §6 (NEW) .]

F. Information on the THC potency of the marijuana or marijuana product and the potency of such other cannabinoids or other chemicals in the marijuana or marijuana product, including, but not limited to, cannabidiol; [2017, c. 409, Pt. A, §6 (NEW) .]

G. Information on the amount of THC and cannabidiol per serving of the marijuana or marijuana product and, for edible marijuana products, the number of servings per package; [2017, c. 409, Pt. A, §6 (NEW) .]

H. Information on gases, solvents and chemicals used in marijuana extraction; [2017, c. 409, Pt. A, §6 (NEW) .]

I. Instructions on usage; [2017, c. 409, Pt. A, §6 (NEW) .]

J. For adult use marijuana products:

(1) The amount of marijuana concentrate per serving of the product, as measured in grams, and the amount of marijuana concentrate per package of the product, as measured in grams;

(2) A list of ingredients and possible allergens; and

(3) A recommended use date or expiration date; [2017, c. 409, Pt. A, §6 (NEW) .]

K. For edible marijuana products, a nutritional fact panel; and [2017, c. 409, Pt. A, §6 (NEW) .]

L. Any other information required by rule by the department. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Packaging requirements. Adult use marijuana and adult use marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter must be packaged in the following manner, as applicable based on the marijuana or marijuana product to be sold:

A. Adult use marijuana and adult use marijuana products must be prepackaged in child-resistant and tamper-evident packaging or must be placed in child-resistant and tamper-evident packaging at the final point of sale to a consumer; [2017, c. 409, Pt. A, §6 (NEW) .]

B. Adult use marijuana and adult use marijuana products must be prepackaged in opaque packaging or an opaque container or must be placed in opaque packaging or an opaque container at the final point of sale to a consumer; [2017, c. 409, Pt. A, §6 (NEW) .]

C. Packaging for multiserving liquid adult use marijuana products must include an integral measurement component and a child-resistant cap; and [2017, c. 409, Pt. A, §6 (NEW) .]

D. Packaging must conform to all other applicable requirements and restrictions imposed by rule by the department. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Other approved labeling and packaging. Adult use marijuana and adult use marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter may include on the label or the packaging of the marijuana or marijuana product:

A. A statement of compatibility with dietary practices; [2017, c. 409, Pt. A, §6 (NEW) .]

B. Depictions of geometric shapes or marijuana leaves; [2017, c. 409, Pt. A, §6 (NEW) .]

C. Use of the terms "organic," "organically cultivated" or "organically grown" in accordance with requirements regarding the use of such terms as adopted by rule by the department; and [2017, c. 409, Pt. A, §6 (NEW) .]

D. Any other information that has been preapproved by the department. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Labeling and packaging prohibitions. Adult use marijuana and adult use marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter:

A. May not be labeled or packaged in violation of a federal trademark law or regulation or in a manner that would cause a reasonable consumer confusion as to whether the marijuana or marijuana product was a trademarked product; [2017, c. 409, Pt. A, §6 (NEW).]

B. May not be labeled or packaged in a manner that is specifically designed to appeal particularly to a person under 21 years of age; [2017, c. 409, Pt. A, §6 (NEW).]

C. May not be labeled or packaged in a manner that obscures identifying information on the label or uses a false or deceptive label; [2017, c. 409, Pt. A, §6 (NEW).]

D. May not be sold or offered for sale using a label or packaging that depicts a human, animal or fruit; and [2017, c. 409, Pt. A, §6 (NEW).]

E. May not be labeled or packaged in violation of any other labeling or packaging requirement or restriction imposed by rule by the department. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§702. SIGNS, ADVERTISING AND MARKETING

1. Prohibitions. Signs, advertising and marketing used by or on behalf of a licensee:

A. May not be misleading, deceptive or false; [2017, c. 409, Pt. A, §6 (NEW).]

B. May not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal particularly to persons under 21 years of age; [2017, c. 409, Pt. A, §6 (NEW).]

C. May not be placed or otherwise used within 1,000 feet of the property line of a preexisting public or private school, except that, if a municipality by ordinance or other regulation, or, in the case of a town, plantation or township located in the unorganized and deorganized areas, the Maine Land Use Planning Commission, chooses to prohibit the placement or use of signs or advertising by or on behalf of a marijuana establishment at distances greater than or less than 1,000 feet but not less than 500 feet from the property line of a preexisting public or private school, that greater or lesser distance applies. As used in this paragraph, "school" has the same meaning as in section 402, subsection 2, paragraph A; and [2017, c. 409, Pt. A, §6 (NEW).]

D. May not violate any other requirement or restriction on signs, advertising and marketing imposed by the department by rule pursuant to subsection 2. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Rules on signs, advertising and marketing. The department shall adopt rules regarding the placement and use of signs, advertising and marketing by or on behalf of a licensee, which may include, but are not limited to:

A. A prohibition on health or physical benefit claims in advertising or marketing, including, but not limited to, health or physical benefit claims on the label or packaging of adult use marijuana or an adult use marijuana product; [2017, c. 409, Pt. A, §6 (NEW).]

B. A prohibition on unsolicited advertising or marketing on the Internet, including, but not limited to, banner advertisements on mass-market websites; [2017, c. 409, Pt. A, §6 (NEW).]

C. A prohibition on opt-in advertising or marketing that does not permit an easy and permanent opt-out feature; and [2017, c. 409, Pt. A, §6 (NEW).]

D. A prohibition on advertising or marketing directed toward location-based devices, including, but not limited to, cellular telephones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§703. OTHER HEALTH AND SAFETY REQUIREMENTS AND RESTRICTIONS; RULES

1. Requirements and restrictions for edible marijuana products. In addition to all other applicable provisions of this subchapter, edible marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter:

A. May be manufactured in geometric shapes or in the shape of a marijuana leaf; [2017, c. 409, Pt. A, §6 (NEW).]

B. Must be manufactured in a manner that results in the cannabinoid content within the product being homogeneous throughout the product or throughout each element of the product that has a cannabinoid content; [2017, c. 409, Pt. A, §6 (NEW).]

C. Must be manufactured in a manner that results in the amount of marijuana concentrate within the product being homogeneous throughout the product or throughout each element of the product that contains marijuana concentrate; [2017, c. 409, Pt. A, §6 (NEW).]

D. Must have a universal symbol stamped or embossed on each serving of the product; [2017, c. 409, Pt. A, §6 (NEW).]

E. May not be manufactured in the distinct shape of a human, animal or fruit; [2017, c. 409, Pt. A, §6 (NEW).]

F. May not contain more than 10 milligrams of THC per serving of the product and may not contain more than 100 milligrams of THC per package of the product; [2017, c. 409, Pt. A, §6 (NEW).]

G. May not contain additives that are:

(1) Toxic or harmful to human beings;

(2) Specifically designed to make the product more addictive or that are misleading to consumers; or

(3) Specifically designed to make the product appeal particularly to a person under 21 years of age; and [2017, c. 409, Pt. A, §6 (NEW).]

H. May not involve the addition of marijuana to a trademarked food or drink product, except when the trademarked product is used as a component of or ingredient in the edible marijuana product and the edible marijuana product is not advertised or described for sale as containing the trademarked product. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Health and safety rules. The department shall adopt labeling, packaging and other necessary health and safety rules for adult use marijuana and adult use marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with this chapter. Rules adopted pursuant to this subsection must

establish mandatory health and safety standards applicable to the cultivation of adult use marijuana, the manufacture of adult use marijuana products and the packaging and labeling of adult use marijuana and adult use marijuana products sold by a licensee to a consumer. Such rules must address, but are not limited to:

- A. Requirements for the storage, warehousing and transportation of adult use marijuana and adult use marijuana products by licensees; [2017, c. 409, Pt. A, §6 (NEW).]
- B. Sanitary standards for marijuana establishments, including, but not limited to, sanitary standards for the manufacture of adult use marijuana and adult use marijuana products; and [2017, c. 409, Pt. A, §6 (NEW).]
- C. Limitations on the display of adult use marijuana and adult use marijuana products at marijuana stores. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§704. COORDINATION WITH LABELING AND PACKAGING RULES FOR MARIJUANA AND MARIJUANA PRODUCTS FOR MEDICAL USE

In adopting rules and regulating the labeling and packaging of adult use marijuana and adult use marijuana products under this subchapter, the department shall ensure that, when necessary and practicable, the regulation of the labeling and packaging of adult use marijuana and adult use marijuana products under this subchapter is consistent with the regulation of the labeling and packaging of marijuana and marijuana products for medical use under the Maine Medical Use of Marijuana Act. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

Subchapter 8: LICENSE VIOLATIONS; PENALTIES

§801. DEPARTMENT MAY IMPOSE PENALTY ON LICENSEE FOR LICENSE VIOLATION; MAINE ADMINISTRATIVE PROCEDURE ACT APPLIES

The department, on its own initiative or on complaint and after investigation, notice and the opportunity for a public hearing, by written order may impose a monetary penalty on a licensee or suspend or revoke the licensee's license for a violation by the licensee or by an agent or employee of the licensee of the provisions of this chapter, the rules adopted pursuant to this chapter or the terms, conditions or provisions of the licensee's license. [2017, c. 409, Pt. A, §6 (NEW).]

1. Additional penalties may be imposed. Any penalties imposed by the department on a licensee pursuant to this subchapter are in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Maine Administrative Procedure Act; appeals. Except as otherwise provided in this subchapter or in rules adopted pursuant to this subchapter, the imposition of a monetary penalty, suspension or revocation on a licensee by the department, including, but not limited to, the provision of notice and the conduct of hearings, is governed by the Maine Administrative Procedure Act. A final order of the department imposing

a monetary penalty on a licensee or suspending or revoking the licensee's license is a final agency action, as defined in Title 5, section 8002, subsection 4, and the licensee may appeal that final order to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§802. PENALTIES

1. Monetary penalties. A monetary penalty imposed by the department on a licensee pursuant to this subchapter may not exceed \$100,000 per license violation.

A. The department shall adopt rules setting forth potential amounts of monetary penalties to be imposed on a licensee based upon specific categories of unauthorized conduct by the licensee, including major and minor license violations, as follows:

(1) Not more than \$10,000 per minor license violation;

(2) Except as provided in subparagraph (3), not more than \$50,000 per major license violation; and

(3) Not more than \$100,000 per major license violation affecting public safety. [2017, c. 409, Pt. A, §6 (NEW) .]

B. All monetary penalties imposed pursuant to this subchapter must be paid by the licensee to the department in the form of cash or in the form of a certified check or a cashier's check payable to the department. All monetary penalties paid to the department pursuant to this subchapter must be deposited into the Adult Use Marijuana Regulatory Coordination Fund established in section 1102. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. License suspension. A licensee whose license has been suspended pursuant to this subchapter may not, for the duration of the period of suspension, engage in any activities relating to the operation of the marijuana establishment the licensee is licensed to operate.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. License revocation. A licensee whose license has been revoked pursuant to this subchapter shall cease immediately all activities relating to the operation of the marijuana establishment the licensee was previously licensed to operate and shall ensure that all adult use marijuana and adult use marijuana products in the possession of the licensee are forfeited to the department for destruction in accordance with section 803.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Imposition of monetary penalty upon suspension or revocation. In addition to suspending or revoking a licensee's license, the department may impose a monetary penalty on the licensee consistent with this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§803. DISPOSITION OF UNAUTHORIZED MARIJUANA OR MARIJUANA PRODUCTS OF LICENSEE

1. Order; destruction of marijuana or marijuana products. If the department issues a final order imposing a monetary penalty on or a license suspension or revocation against a licensee pursuant to this subchapter, the department may specify in the order, in addition to any other penalties imposed in the order, that all or a portion of the marijuana or marijuana products in the possession of the licensee are not authorized under this chapter and are subject to destruction. A licensee subject to a final order directing the destruction of marijuana or marijuana products in the possession of the licensee shall forfeit the marijuana and marijuana products described in the order to the department for destruction.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Investigation. If the department is notified by a criminal justice agency that there is a pending investigation of a licensee subject to an order imposed under subsection 1, the department may not destroy any marijuana or marijuana products of that licensee until the destruction is approved by the criminal justice agency.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§804. RULES

The department shall adopt rules governing the imposition of monetary penalties, suspensions and revocations under this subchapter, which must include, but are not limited to, provisions relating to notice and conduct of hearings consistent with the Maine Administrative Procedure Act and provisions relating to the disposition of unauthorized marijuana and marijuana products of a licensee. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

Subchapter 9: MARIJUANA ADVISORY COMMISSION

§901. ESTABLISHMENT

The Marijuana Advisory Commission, established by Title 5, section 12004-I, subsection 52-C and referred to in this subchapter as "the commission," is created for the purpose of conducting a continuing study of the laws relating to marijuana and reporting to the Legislature its findings and recommendations on an annual basis. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§902. MEMBERSHIP; CHAIRS; TERMS; VACANCIES; QUORUM

1. Membership. The commission consists of the following 15 members:

A. Two members of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature, appointed by the President of the Senate; [2017, c. 409, Pt. A, §6 (NEW) .]

B. Two members of the House of Representatives, including members from each of the 2 parties holding the largest number of seats in the Legislature, appointed by the Speaker of the House of Representatives; [2017, c. 409, Pt. A, §6 (NEW) .]

C. The Commissioner of Administrative and Financial Services or the commissioner's designee; [2017, c. 409, Pt. A, §6 (NEW) .]

D. The Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee; [2017, c. 409, Pt. A, §6 (NEW) .]

E. The Commissioner of Health and Human Services or the commissioner's designee; [2017, c. 409, Pt. A, §6 (NEW) .]

F. The Commissioner of Labor or the commissioner's designee; [2017, c. 409, Pt. A, §6 (NEW) .]

G. The Commissioner of Public Safety or the commissioner's designee; [2017, c. 409, Pt. A, §6 (NEW) .]

H. The following 3 members, appointed by the President of the Senate:

(1) A representative of a statewide association representing prosecutors;

(2) A representative of a statewide association representing the medical marijuana industry; and

(3) A member of the public; and [2017, c. 409, Pt. A, §6 (NEW) .]

I. The following 3 members, appointed by the Speaker of the House of Representatives:

(1) A representative of a statewide association representing the adult use marijuana industry;

(2) A member of the public with demonstrated expertise and credentials in public health policy; and

(3) A member of the public. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Chairs. The first-named Senate member is the Senate chair and the first-named House member is the House chair of the commission.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Terms. Members of the commission who are Legislators serve during the term of office for which they were elected. Other members of the commission serve for a term of 2 years and may be reappointed.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Vacancies. In the event of a vacancy on the commission, the member's unexpired term must be filled through an appointment by the appointing authority for the vacant seat.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Quorum. A quorum of the commission consists of 8 members.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§903. DUTIES

1. Review of laws and rules. The commission shall review laws and rules pertaining to the adult use marijuana and medical marijuana industries in this State and any other provision of law or rule pertaining to marijuana, including, but not limited to, laws and rules regarding public health, public safety, juvenile and adult criminal and civil offenses, workplace drug testing, workplace safety, motor vehicle safety, landlords and tenants, the personal use of marijuana and taxes and fees paid to the State by applicants and registered caregivers and registered dispensaries under the Maine Medical Use of Marijuana Act and applicants and licensees under this Act.

[2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

2. Solicitation of public comment regarding law enforcement contacts with citizens. The commission shall, on an annual basis, solicit public comment regarding contacts between law enforcement officers and citizens following the initiation of an adult use marijuana market in the State that involve the personal adult use of marijuana and marijuana products and the home cultivation of marijuana for personal adult use. The public comments solicited under this subsection and any findings or recommendations by the commission relating to those solicited comments must be included in the annual report under subsection 5.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Submission of recommendations to Legislature. The commission shall submit to the Legislature such recommended changes to the laws as it considers appropriate to:

A. Preserve the public health and safety and the well-being of the citizens of the State; [2017, c. 409, Pt. A, §6 (NEW) .]

B. Preserve the intent of the citizens of the State as expressed in passage of the Marijuana Legalization Act, former Title 7, chapter 417; and [2017, c. 409, Pt. A, §6 (NEW) .]

C. Standardize, coordinate or integrate the adult use marijuana and medical marijuana laws, rules and programs in the State, including, but not limited to, recommended changes regarding the standardization, coordination or integration of the laws and rules relating to the testing, labeling and packaging of adult use marijuana and adult use marijuana products and marijuana and marijuana products for medical use. [2017, c. 409, Pt. A, §6 (NEW) .]

The commission shall include any recommended changes in its annual report to the Legislature pursuant to subsection 5.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Public hearings. The commission may hold public hearings at such times and at such places as the commission considers appropriate in order to take testimony concerning the use, possession and distribution of marijuana, law enforcement contacts with citizens as described in subsection 2, the alignment of this Act with other provisions of law and any other matter relating to the duties of the commission.

[2017, c. 409, Pt. A, §6 (NEW) .]

5. Report to Legislature. Beginning January 15, 2020, and annually thereafter, the commission shall submit a report containing its findings and recommendations, together with any suggested legislation, to the joint standing committees of the Legislature having jurisdiction over health and human services matters and adult use marijuana matters.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§904. ORGANIZATION; STAFFING; CONSULTATION

1. Organization; staffing. The Legislative Council shall provide staffing services to the commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session. The Executive Director of the Legislative Council shall notify all members of the commission of the time and place of the first meeting.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Consultation. Whenever the commission considers it appropriate, it may seek the advice of consultants or experts, including representatives of the legislative and executive branches of State Government, in fields related to its duties.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§905. REIMBURSEMENT OF EXPENSES

Members of the commission must be compensated in accordance with Title 5, chapter 379. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

Subchapter 10: EXCISE TAX ON ADULT USE MARIJUANA

§1001. EXCISE TAX IMPOSED

Beginning on the first day of the calendar month in which adult use marijuana may be sold in the State by a cultivation facility under this chapter, an excise tax on adult use marijuana is imposed in accordance with this subchapter. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Excise tax on marijuana flower and mature marijuana plants. A cultivation facility licensee shall pay an excise tax of \$335 per pound of marijuana flower or mature marijuana plants sold to other licensees in the State.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Excise tax on marijuana trim. A cultivation facility licensee shall pay an excise tax of \$94 per pound of marijuana trim sold to other licensees in the State.

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Excise tax on immature marijuana plants and seedlings. A cultivation facility licensee shall pay an excise tax of \$1.50 per immature marijuana plant or seedling sold to other licensees in the State.

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Excise tax on marijuana seeds. A cultivation facility licensee shall pay an excise tax of \$0.30 per marijuana seed sold to other licensees in the State.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§1002. PAYMENT OF EXCISE TAX

On or before the last day of each month, a cultivation facility licensee shall pay to the department all excise taxes due under this subchapter on the adult use marijuana sold by the cultivation facility licensee to other licensees during the preceding calendar month. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§1003. APPLICATION OF EXCISE TAX REVENUE

All excise tax revenue collected by the department pursuant to this subchapter on the sale of adult use marijuana must be deposited into the General Fund, except that, on or before the last day of each month, the department shall transfer 12% of the excise tax revenue received by the department during the preceding month pursuant to this subchapter to the Adult Use Marijuana Public Health and Safety Fund established under section 1101. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

Subchapter 11: ADULT USE MARIJUANA PUBLIC HEALTH AND SAFETY FUND; ADULT USE MARIJUANA REGULATORY COORDINATION FUND

§1101. ADULT USE MARIJUANA PUBLIC HEALTH AND SAFETY FUND

The Adult Use Marijuana Public Health and Safety Fund, referred to in this section as "the fund," is established as a dedicated, nonlapsing fund within the department for the purposes specified in this section. [2017, c. 409, Pt. A, §6 (NEW) .]

1. Sources of fund. The State Controller shall credit to the fund:

- A. Money received from the excise tax imposed on the sale of adult use marijuana by a cultivation facility licensee to other licensees pursuant to subchapter 10 in the amount required under section 1003; [2017, c. 409, Pt. A, §6 (NEW) .]
- B. Money received from the sales tax imposed on the sale of adult use marijuana and adult use marijuana products by a marijuana store licensee to a consumer pursuant to Title 36, section 1811 in the amount required under Title 36, section 1818; [2017, c. 409, Pt. A, §6 (NEW) .]
- C. All money from any other source, whether public or private, designated for deposit into or credited to the fund; and [2017, c. 409, Pt. A, §6 (NEW) .]
- D. Interest earned or other investment income on balances in the fund. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Uses of fund. Money credited to the fund pursuant to subsection 1 may be used by the department as provided in this subsection.

A. No more than 50% of all money credited to the fund may be expended by the department to fund public health and safety awareness and education programs, initiatives, campaigns and activities relating to the sale and use of adult use marijuana and adult use marijuana products conducted in accordance with section 108 by the department, another state agency or department or any other public or private entity. [2017, c. 409, Pt. A, §6 (NEW).]

B. No more than 50% of all money credited to the fund may be expended by the department to fund enhanced law enforcement training programs relating to the sale and use of adult use marijuana and adult use marijuana products for local, county and state law enforcement officers conducted in accordance with section 109 by the department, the Maine Criminal Justice Academy, another state agency or department or any other public or private entity. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Application of fund to departmental expenses prohibited. Money in the fund may not be applied to any expenses incurred by the department in implementing, administering or enforcing this chapter.

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§1102. ADULT USE MARIJUANA REGULATORY COORDINATION FUND

The Adult Use Marijuana Regulatory Coordination Fund, referred to in this section as "the fund," is established as a dedicated, nonlapsing Other Special Revenue Funds account in the department. The fund is administered and used by the commissioner for the purposes of adopting rules under this chapter and for the purposes of implementing, administering and enforcing this chapter. The commissioner may expend money in the fund to enter into contracts with consultants and employ staff, as determined necessary by the commissioner, conduct meetings with stakeholders and conduct any other activities related to the implementation, administration and enforcement of this chapter. [2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

Chapter 3: PERSONAL ADULT USE OF MARIJUANA AND MARIJUANA PRODUCTS; HOME CULTIVATION OF MARIJUANA FOR PERSONAL ADULT USE

§1501. PERSONAL ADULT USE OF MARIJUANA AND MARIJUANA PRODUCTS

1. Authorized conduct. Except as otherwise authorized by this Title, a person 21 years of age or older may:

- A. Use, possess or transport marijuana paraphernalia; [2017, c. 409, Pt. A, §6 (NEW).]
- B. Use, possess or transport at any one time up to 2 1/2 ounces of marijuana or 2 1/2 ounces of a combination of marijuana and marijuana concentrate that includes no more than 5 grams of marijuana concentrate; [2017, c. 409, Pt. A, §6 (NEW).]
- C. Transfer or furnish, without remuneration, to a person 21 years of age or older up to 2 1/2 ounces of marijuana or 2 1/2 ounces of a combination of marijuana and marijuana concentrate that includes no more than 5 grams of marijuana concentrate; [2017, c. 409, Pt. A, §6 (NEW).]
- D. Transfer or furnish, without remuneration, to a person 21 years of age or older up to 6 immature marijuana plants or seedlings; [2017, c. 409, Pt. A, §6 (NEW).]
- E. Subject to the requirements and restrictions of section 1502, possess, cultivate or transport at any one time up to 3 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings and possess all the marijuana produced by such plants at the person's place of residence or at the location where the marijuana was cultivated; [2017, c. 409, Pt. A, §6 (NEW).]
- F. Subject to the limitations imposed under paragraph B, purchase up to 2 1/2 ounces of adult use marijuana or 2 1/2 ounces of a combination of adult use marijuana and marijuana concentrate that includes no more than 5 grams of marijuana concentrate from a marijuana store; and [2017, c. 409, Pt. A, §6 (NEW).]
- G. Subject to the limitations imposed under paragraph E, purchase up to 12 immature marijuana plants or seedlings from a nursery cultivation facility as described in section 301, subsection 5 or from a marijuana store. [2017, c. 409, Pt. A, §6 (NEW).]

For the purposes of this subsection, "remuneration" includes a donation or any other monetary payment received directly or indirectly by a person in exchange for goods or services as part of a transaction in which marijuana, marijuana products or marijuana plants are transferred or furnished by that person to another person.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Consumption of marijuana and marijuana products; violation. The provisions of this subsection apply to the consumption of marijuana or marijuana products by a person 21 years of age or older.

A. A person 21 years of age or older may consume marijuana or marijuana products only if that person is:

- (1) In a private residence, including curtilage; or
 - (2) On private property, not generally accessible by the public, and the person is explicitly permitted to consume marijuana or marijuana products on the property by the owner of the property.
- [2017, c. 409, Pt. A, §6 (NEW).]

B. A person 21 years of age or older may not consume marijuana or marijuana products:

- (1) If that person is the operator of a vehicle on a public way or a passenger in the vehicle. As used in this subparagraph, "vehicle" has the same meaning as in Title 29-A, section 101, subsection 91;
- (2) In a private residence or on private property used as a day care or baby-sitting service during the hours in which the residence or property is being operated as a day care or baby-sitting service;
- (3) By means of smoking the marijuana or marijuana product in a designated smoking area as provided under the Workplace Smoking Act of 1985; or
- (4) By means of smoking the marijuana or marijuana product in a public place or in a public area where smoking is prohibited under Title 22, chapter 262. [2017, c. 409, Pt. A, §6 (NEW) .]

C. A person who violates this subsection commits a civil violation for which a fine of not more than \$100 may be adjudged in addition to any criminal or civil penalties that may be imposed pursuant to other applicable laws or rules. [2017, c. 409, Pt. A, §6 (NEW) .]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW) .

§1502. HOME CULTIVATION OF MARIJUANA FOR PERSONAL ADULT USE

The provisions of this section apply to the home cultivation of marijuana for personal adult use by a person 21 years of age or older, but do not apply to the cultivation of marijuana for medical use by a qualifying patient, a caregiver, a registered caregiver or a registered dispensary as authorized by the Maine Medical Use of Marijuana Act. [2017, c. 409, Pt. A, §6 (NEW); 2017, c. 452, §37 (REV) .]

1. Cultivation of up to 3 mature marijuana plants per person for personal adult use authorized.

Subject to the applicable requirements and restrictions of subsections 2, 3 and 4, a person 21 years of age or older may cultivate up to 3 mature marijuana plants, up to 12 immature marijuana plants and an unlimited number of seedlings for personal adult use:

- A. On a parcel or tract of land on which the person is domiciled; [2017, c. 409, Pt. A, §6 (NEW) .]
- B. On a parcel or tract of land owned by the person on which the person is not domiciled; or [2017, c. 409, Pt. A, §6 (NEW) .]
- C. On a parcel or tract of land not owned by the person and on which the person is not domiciled so long as the owner of the parcel or tract of land by written agreement permits the cultivation and care of the marijuana plants on the parcel or tract of land by that person. [2017, c. 409, Pt. A, §6 (NEW) .]

A person may cultivate the marijuana plants and seedlings authorized under this subsection at multiple locations so long as such cultivation activities otherwise meet all requirements and restrictions of this section.

[2017, c. 409, Pt. A, §6 (NEW) .]

2. Cultivation requirements. A person who cultivates marijuana for personal adult use pursuant to this section shall:

- A. Ensure that the marijuana is not visible from a public way without the use of aircraft or binoculars or other optical aids; [2017, c. 409, Pt. A, §6 (NEW) .]
- B. Take reasonable precautions to prevent unauthorized access by a person under 21 years of age; [2017, c. 409, Pt. A, §6 (NEW) .]

C. Attach to each mature marijuana plant and each immature marijuana plant a legible tag that includes the person's name, driver's license number or identification number, a notation that the marijuana plant is being grown for personal adult use as authorized under this section and, if the cultivation is on a parcel or tract of land owned by another person, the name of that owner; and [2017, c. 409, Pt. A, §6 (NEW).]

D. Comply with all applicable local regulations relating to the home cultivation of marijuana for personal adult use that have been adopted in accordance with subsection 3 or 4. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

3. Local regulation of home cultivation of marijuana for personal adult use within municipalities.

In accordance with this subchapter and pursuant to the home rule authority granted under the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 3001, a municipality may regulate the home cultivation of marijuana for personal adult use within the municipality.

A. A municipality may adopt an ordinance or other regulation limiting the total number of mature marijuana plants that may be cultivated on any one parcel or tract of land within the municipality so long as that ordinance or regulation allows for the cultivation of 3 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on a parcel or tract of land. [2017, c. 409, Pt. A, §6 (NEW).]

B. A municipality may not generally prohibit the home cultivation of marijuana for personal adult use within the municipality, restrict the areas within the municipality in which home cultivation of marijuana for personal adult use is allowed or charge a license or other fee to a person relating to the home cultivation of marijuana for personal adult use within the municipality. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

4. Local regulation of home cultivation of marijuana for personal adult use within town, plantation or township in unorganized and deorganized areas. In accordance with this subchapter and pursuant to the authority granted under Title 12, chapter 206-A, the Maine Land Use Planning Commission may regulate the home cultivation of marijuana for personal adult use within a town, plantation or township in the unorganized and deorganized areas.

A. The Maine Land Use Planning Commission may limit the total number of mature marijuana plants that may be cultivated on any one parcel or tract of land within a town, plantation or township in the unorganized and deorganized areas so long as that limitation allows for the cultivation of 3 mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on a parcel or tract of land. [2017, c. 409, Pt. A, §6 (NEW).]

B. The Maine Land Use Planning Commission may not generally prohibit the home cultivation of marijuana for personal adult use within a town, plantation or township in the unorganized and deorganized areas; restrict the areas within the town, plantation or township in which home cultivation of marijuana for personal adult use is allowed; or charge a license or other fee to a person relating to the home cultivation of marijuana for personal adult use within the town, plantation or township. [2017, c. 409, Pt. A, §6 (NEW).]

[2017, c. 409, Pt. A, §6 (NEW) .]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW). 2017, c. 452, §37 (REV).

§1503. HOME EXTRACTION OF MARIJUANA CONCENTRATE BY USE OF INHERENTLY HAZARDOUS SUBSTANCE PROHIBITED

Except as authorized under section 502, subsection 7 or pursuant to the Maine Medical Use of Marijuana Act, a person may not manufacture marijuana concentrate using an inherently hazardous substance. The owner of a property or a parcel or tract of land may not intentionally or knowingly allow another person to manufacture marijuana concentrate using an inherently hazardous substance within or on that property or land. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

§1504. VIOLATIONS; PENALTIES

Except as provided in section 1501, subsection 2, a person who violates any provision of this chapter is subject to forfeiture or seizure of any unauthorized marijuana, marijuana products or marijuana plants pursuant to Title 15, chapter 517 and is subject to any additional criminal or civil penalties that may be imposed pursuant to other applicable laws or rules. [2017, c. 409, Pt. A, §6 (NEW).]

SECTION HISTORY

2017, c. 409, Pt. A, §6 (NEW).

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PROVISIONALLY ADOPTED RULES MAINE'S ADULT USE MARIJUANA PROGRAM

**Office of Marijuana Policy
Department of Administrative and Financial Services**

JUNE 2019

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General

These rules establish the requirements for becoming a licensed marijuana establishment, including fees, application and licensing processes and procedures for cultivation, production and retail sale of adult use marijuana. The activities described in these rules may be considered a violation of federal law. Persons cultivating, producing, selling, purchasing or otherwise receiving marijuana products may be subject to federal sanctions for what may otherwise be considered authorized conduct in the State of Maine, and compliance with these rules does not exempt licensees, their employees or customers from possible federal prosecution. The Department is not responsible or liable for the actions of marijuana establishments under these rules.

Unless otherwise indicated in these rules, copies of rules and statutes referenced herein are available from the following sources:

Code of Federal Regulations (CFR) is available online at <https://www.govinfo.gov/app/frtoc/today> (last accessed June 3, 2019) or in print from the Office of the Federal Register of the National Archives and Records Administration at 710 North Capitol Street NW, Washington, DC 20401.

Maine Revised Statutes (MRS) are available online at <http://mainelegislature.org/statutes/> (last accessed June 3, 2019) or in print from the Office of the Revisor of Statutes, 7 State House Station, Augusta, ME 04333-0007.

Code of Maine Rules (CMR) is available online at <https://www.maine.gov/sos/cec/rules/rules.html> (last accessed June 3, 2019) or in print from the Maine Department of the Secretary of State, Bureau of Corporations, Elections, and Commissions, 101 State House Station, Augusta, ME 04333-0101.

Section 1 - Administrative

1.1 - Statutory Authority

The Office of Marijuana Policy, referred heretofore as the Department, is an office of the Maine Department Administrative and Financial Services, pursuant to P. L. 2018, ch. 409, 28-B M.R.S. § 101, et seq. (the "Act") generally, and 28-B M.R.S. § 104 thereof specifically, has developed the following rules, to be known heretofore as the "Rule," for the purposes of implementing, administering and enforcing the Act.

1.2 - Communication with Department

1.2.1 Written Communications. If an applicant or licensee is required to or elects to submit anything in writing to the Department, unless otherwise prescribed by the Department, the applicant or licensee may submit the writing to the Department via:

- A. Mail;
- B. In-person delivery;
- C. Facsimile; or
- D. E-mail.

1.2.2 Submission Deadline. If a written notification must be submitted by a deadline it must be received by the Department, regardless of the method used to submit the writing, by 5:00 p.m. Eastern Time.

1.3 - Definitions

1. **Active license:** "Active license" means a license issued by the Department that authorizes cultivation, testing, manufacture or sale of marijuana or marijuana products in accordance with the Maine Revised Statutes and this Rule.

2. **Adult use marijuana:** "Adult use marijuana" means marijuana cultivated, manufactured, distributed or sold by a marijuana establishment.
3. **Adult use marijuana product:** "Adult use marijuana product" means a marijuana product that is manufactured, distributed or sold by a marijuana establishment.
4. **Age restricted retail area:** "Age restricted retail area" is an area in a marijuana store or nursery cultivation facility that allows access to adults aged 21 or older only for purposes authorized in Section 3.2.2 of this Rule.
5. **Analytical batch:** "Analytical batch" means a group of samples that is prepared and/or analyzed together with the same process and personnel, using the same lot(s) of reagents.
6. **Another jurisdiction:** "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states of the United States except Maine.
7. **Apparent activity:** "Apparent activity" is any sights, sounds, smells or other indications that persons are present at a marijuana establishment.
8. **Applicant:** "Applicant" means a person who submits an application for a license under this chapter to the department for review that the department has not yet approved or denied.
9. **Batch:** "Batch" means:
 - a. A specific quantity of adult use marijuana harvested during a specified period of time from a specified cultivation area within a cultivation facility; or
 - b. A specific quantity of adult use marijuana or adult use marijuana products produced during a specified period of time in a specified manufacturing area within a products manufacturing facility.
10. **Batch number:** "Batch number" means a distinct group of numbers, letters or symbols, or any combination thereof, assigned to a specific batch of adult use marijuana by a cultivation facility or to a specific batch of adult use marijuana or adult use marijuana products by a products manufacturing facility.
11. **Business entity:** "Business entity" means a partnership, association, company, corporation, limited liability company or other entity incorporated or otherwise formed or organized by law. "Business entity" does not include a federal, state or municipal government organization.
12. **Caregiver:** "Caregiver" has the same meaning as in 22 MRS§2422(8-A).
13. **Child-resistant:** "Child-resistant" means, with respect to packaging or a container:
 - a. Specially designed or constructed to be significantly difficult for a typical child under 5 years of age to open and not to be significantly difficult for a typical adult to open and reseal; and
 - b. With respect to any product intended for more than a single use or that contains multiple servings, resealable.
14. **Commissioner:** "Commissioner" means the Commissioner of Administrative and Financial Services.
15. **Conditional license:** "Conditional license" is a license issued by the Department that authorizes the licensee to seek local authorization. The conditional license does not authorize possession, transfer, cultivation, testing, manufacture or sale of marijuana or marijuana products.

16. **Container:** "Container" means a sealed package in which adult use marijuana or an adult use marijuana product is placed by a marijuana store prior to sale to a consumer and that meets all applicable packaging, labeling and health and safety requirements of this chapter and the rules adopted pursuant to this chapter.
17. **Criminal justice agency:** "Criminal justice agency" has the same meaning as in 16 MRS§803(4).
18. **Cultivation:** "Cultivation" or "cultivate" means the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction.
19. **Cultivation facility:** "Cultivation facility" means a facility licensed under this Rule to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores. A cultivation facility includes a nursery cultivation facility. Licensees that cultivate marijuana in a nursery cultivation facility may sell an unlimited number of marijuana seeds and a sum total of 12 seedlings and immature plants to a consumer 21 years of age or older.
20. **Department:** "Department" means the Department of Administrative and Financial Services.
21. **Disqualifying drug offense:** "Disqualifying drug offense" means a conviction for a violation of a state or federal controlled substance law that is a crime punishable by imprisonment for one year or more, except that "disqualifying drug offense" does not include:
 - a. An offense for which the sentence, including any term of probation, incarceration or supervised release, was completed 10 or more years prior to the submission of an application for a license under this Rule; or
 - b. An offense that consisted of conduct that is authorized under 28-B MRS, chapter 3.
22. **Edible marijuana product:** "Edible marijuana product" means a marijuana product intended to be consumed orally, including, but not limited to, any type of food, drink or pill containing marijuana or marijuana concentrate.
23. **Flowering:** "Flowering" means, with respect to a marijuana plant, the gametophytic or reproductive state of a female marijuana plant during which the plant is in a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of marijuana.
24. **Harvest batch:** "Harvest batch" means a batch of marijuana flowers, leaves and trim that was harvested from marijuana plants of the same strain, grown under the same conditions, in the same area of a marijuana cultivation establishment and harvested at the same time.
25. **Identity statement:** "Identity statement" means the name of a business entity as it is commonly known and used in any advertising or marketing by the business entity.
26. **Immature marijuana plant:** "Immature marijuana plant" means a marijuana plant that is not a mature marijuana plant or a seedling.
27. **Infused marijuana product:** "Infused marijuana product" means a product or compound that includes one or more marijuana concentrate along with other materials or ingredients, including without limitation, edible marijuana products and topical marijuana products.
28. **Inhaled marijuana product:** "Inhaled marijuana product" means usable marijuana, marijuana concentrate or marijuana products that are intended to be consumed by inhalation, including, without limitation, marijuana flower or trim, pre-rolled marijuana cigarettes, vaporizer cartridges and vaporizer pens.

29. **Inherently hazardous materials:** "Inherently hazardous materials" means a liquid chemical, compressed gas or commercial product that has a flash point at or lower than 38 degrees Celsius or 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. "Inherently hazardous materials" does not include any form of alcohol or ethanol.
30. **Intermediate packaging:** "Intermediate packaging" means packaging materials that are not part of the marketing layer or container, but are included inside an outer container layer, such as a marketing layer.
31. **Intoxication:** "Intoxication" means a substantial impairment of an individual's mental or physical faculties as a result of drug or alcohol use.
32. **Law enforcement officer:** "Law enforcement officer" has the same meaning as in 17-A MRS§2(17).
33. **Licensed premises:** "Licensed premises" means the premises specified in a license to operate a marijuana establishment within which the licensee is authorized under this chapter and the rules adopted pursuant to this chapter to cultivate, manufacture, distribute, test or sell adult use marijuana or adult use marijuana products.
34. **Licensee:** "Licensee" means a natural person or business entity licensed pursuant to 28-B MRS to operate a marijuana establishment.
35. **Limited access area:** "Limited access area" means a building, room or other area within the licensed premises of a marijuana establishment where a licensee is authorized to cultivate, process, store, weigh, manufacture, package or otherwise prepare for transfer or retail sale, marijuana and marijuana products. A "limited access area" can only be accessed by authorized individual identification cardholders or visitors 21 and older accompanied by an authorized individual identification cardholder.
36. **Liquid:** "Liquid" means a substance that flows freely but is of constant volume, having a consistency like that of water or oil.
37. **Local authorization:** "Local authorization" means authorization from a municipality in accordance with 28-B MRS§402 or authorization from the Land Use Planning Commission and either a town, plantation, or county commission in accordance with 28-B MRS§403.
38. **Transportation manifest:** "Transportation manifest" means a record, either paper or electronic, required by the Department for a licensed facility to document the possession and transfer of the marijuana or marijuana product on the premises, tracking all inventory, acquisition, sales and waste disposal.
39. **Manufacture:** "Manufacture" or "manufacturing" means the production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including but not limited to marijuana extraction or preparation by means of chemical synthesis. "Manufacture" or "manufacturing" does not include cultivation or testing.
40. **Manufacturing batch:** "Manufacturing batch" means a batch of cannabis concentrate or extract that is produced in one production cycle using the same extraction methods or formulation and standard operating procedures.
41. **Marijuana:** "Marijuana" means the leaves, stems, flowers and seeds of a marijuana plant, whether growing or not. "Marijuana" includes marijuana concentrate but does not include hemp as defined in 7 MRS§2231(1), or a marijuana product.
42. **Marijuana concentrate:** "Marijuana concentrate" means the resin extracted from any part of a marijuana plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including, but not limited to, hashish. In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredient combined with marijuana or marijuana concentrate to prepare the marijuana product may not be included.

43. **Marijuana drink:** "Marijuana drink" means a liquid edible marijuana product with a concentration of less than 1 mg of THC per ounce of liquid
44. **Marijuana establishment:** "Marijuana establishment" means a cultivation facility, a products manufacturing facility, a testing facility or a marijuana store licensed under 28-B MRS and these Rules.
45. **Marijuana extraction:** "Marijuana extraction" means the process of extracting marijuana concentrate from marijuana using water, lipids, gases, solvents or other chemicals or chemical processes.
46. **Marijuana flower:** "Marijuana flower" means the pistillate reproductive organs of a mature marijuana plant, whether processed or unprocessed, including the flowers and buds of the plant. "Marijuana flower" does not include marijuana trim or whole mature marijuana plants.
47. **Marijuana items:** "Marijuana items" means any usable marijuana or marijuana product that is packaged and labeled for retail sale.
48. **Marijuana plant:** "Marijuana plant" means all species of the plant genus cannabis, including, but not limited to, a mother plant, a mature marijuana plant, an immature marijuana plant or a seedling but it does not include a marijuana product or "hemp" as defined in 7 MRS § 2231(1)..
49. **Marijuana products:** "Marijuana products" means a product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.
50. **Marijuana store:** "Marijuana store" means a facility licensed under this chapter to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.
51. **Marijuana trim:** "Marijuana trim" means any part of a marijuana plant, whether processed or unprocessed, that is not marijuana flower or a marijuana seed; except that "marijuana trim" does not include fan leaves, stalks, and root balls.
52. **Marijuana waste** "Marijuana waste" means marijuana, marijuana plants or marijuana products that are unfit for retail sale for reasons including, without limitation, failed mandatory testing, expired products or crop failure.
53. **Marketing layer:** "Marketing layer" means the outermost layer of a retail sale container, which is most predominantly apparent and visible, such as a box or bag that another container containing marijuana, marijuana plants, marijuana concentrate, or marijuana products are within. If the retail sale container consists of only a single layer, then the outer surface of the retail sale container is the marketing layer.
54. **Mature marijuana plant:** "Mature marijuana plant" means a marijuana plant that is flowering.
55. **Minor:** "Minor" means a person under the age of 21.
56. **Mother plant:** "Mother plant" means a mature marijuana plant that is used solely for the taking of seedling cuttings.
57. **Municipality:** "Municipality" means a city, town or plantation in this State that is not located within the unorganized and deorganized areas.
58. **Nursery plant canopy:** "Nursery plant canopy" is defined as the total square footage of cultivation space occupied by immature plants and seedlings.
59. **Opaque:** "Opaque" means, with respect to packaging or a container, that any product inside of the packaging or container cannot be seen from outside the packaging or container.

60. **Other interested parties:** "Other interested parties" means individuals, groups of individuals or entities that have a direct or indirect financial interest in the licensee's business plan, marketing strategy or operations but are not substantially involved in the management of a marijuana establishment. "Other interested parties" includes state- or federally-chartered financial institutions like banks and credit unions, except where explicitly excluded in these rules.
61. **Party of control:** "Party of control" means an individual person, group of persons or entity that exerts more than minimal influence, through direct or indirect financial interest, over decisions regarding the operation of a marijuana establishment and is entitled to a share of the revenue or profits of the marijuana establishment. "Party of control" does not include state- or federally-chartered financial institutions like banks and credit unions.
62. **Person:** "Person" means a natural person or a business entity.
63. **Plant canopy:** "Plant canopy" means the total surface area within the licensed premises of a cultivation facility that is authorized by the Department for use at any time by the cultivation facility licensee to cultivate mature marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured using the outside boundaries of the area and must include all of the area within the boundaries. If the surface area of the plant canopy consists of noncontiguous areas, each component area must be separated by defined boundaries. If a tiered or shelving system is used by the cultivation facility licensee, the surface area of each tier or shelf must be included in calculation the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the licensed premises of cultivation facility that are used by the licensee to cultivate immature marijuana plants and seedling and that are not used by the licensee at any time to cultivate mature marijuana plants.
64. **Premises:** "Premises" means the designated area within a structure or structures and land specified in the application for registration that is owned, leased or otherwise held under the control of the applicant or licensee where conduct related to marijuana processing and manufacturing takes place. The premises must be a contiguous area and may only be occupied by one establishment, unless otherwise permitted by statute and this Rule. Nothing in this definition should be construed to prohibit the siting of multiple marijuana establishments in the same building or property so long as each establishment operates in a physically distinct space from any other establishment.
65. **Process:** "Process," "processing" or "processed" means the activities involving marijuana plants and plant materials that follow the harvesting of marijuana plants and that precede the manufacturing of marijuana products or the transfer of marijuana to a marijuana store. Activities include, without limitation, the drying, curing, trimming, sorting, weighing and packaging of usable marijuana.
66. **Production batch:** "Production batch" means a prepared marijuana product that is finished plant material, marijuana concentrate, infused marijuana products or other marijuana products made at the same time, using the same methods, equipment and ingredients.
67. **Products manufacturing facility:** "Products manufacturing facility" means a facility licensed under this chapter to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities
68. **Propagation:** "Propagation" means the process of reproducing marijuana plants through the use of marijuana seeds, cuttings or grafting.
69. **Provisional license:** "Provisional license" means a license issued by the Department that authorizes testing of marijuana or marijuana products by a testing facility that has met all requirements other than third party certification, including application for third party certification. The Department may renew a provisional license only once.
70. **Resident:** "Resident" means a natural person who:

- a. Has filed a resident individual income tax return in this State pursuant to Title 36, Part 8 in each of the 4 years prior to the year in which the person files an application for licensure under this chapter. This paragraph is repealed effective June 1, 2021;
 - b. Is domiciled in this State; and
 - c. Maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the taxable year in this State.
- 71. **Retail sale container:** "Retail sale container" means a container in which marijuana, marijuana plants, marijuana concentrate and marijuana products are conveyed during a retail sale which meets all applicable packaging and labeling requirements set forth in 28-B MRS and this Rule.
- 72. **Sale:** "Sale" or "sell" means a transfer of marijuana or marijuana products for consideration.
- 73. **Seedling:** "Seedling" means a marijuana plant that is:
 - a. Not flowering;
 - b. Less than 6 inches in height; and
 - c. Less than 6 inches in width.
- 74. **Tamper-evident:** "Tamper-evident" means, with respect to a device or process, bearing a seal, a label or a marking that makes unauthorized access to or tampering with a package, product or container easily detectable.
- 75. **Testing:** "Testing" or "test" means the research and analysis of marijuana, marijuana products or other substances for contaminants, safety or potency. "Testing" or "test" does not include cultivation or manufacturing.
- 76. **Testing facility:** "Testing facility" means a facility licensed under this chapter to develop, research and test marijuana, marijuana products and other substances.
- 77. **THC:** "THC" means tetrahydrocannabinol.
- 78. **Tincture:** "Tincture" means a liquid edible marijuana product with a concentration of greater than 1 mg of THC per ounce of liquid.
- 79. **Topical marijuana product:** "Topical marijuana product" means non-edible marijuana or marijuana products that are intended to be applied topically and absorbed transdermal, including without limitation salves, creams, lotions, transdermal patches or balms.
- 80. **True party of interest:** "True party of interest" means a natural person who is a sole proprietor, owner, officer, director, manager or general partner of an applicant or a licensee. Regardless of a person's title within the business entity, anyone who holds an ownership interest and is involved in management decisions, board meetings or operations is considered to be a true party of interest; except that "manager" for the purposes of this definition does not include an employee of a licensee whose managerial responsibilities are limited to staff supervision related to the day-to-day operation of a marijuana establishment.
- 81. **Universal symbol:** "Universal symbol" means an image developed by the department, and made available to licensees, that indicates that a container, package or product contains marijuana or contains or is a marijuana product.
- 82. **Unorganized and deorganized areas:** "Unorganized and deorganized areas" has the same meaning as in 12 MRS§682(1).
- 83. **Usable marijuana:** "Usable marijuana" means dried flowers and trim from mature marijuana plants.

84. **Unusable:** "Unusable" means that the Marijuana can no longer be smoked, eaten, ingested, topically applied or otherwise ingested. Nor can the marijuana be further manipulated in a manner to extract more than a trace amount of cannabinoid.
85. **Visibly intoxicated:** "Visibly intoxicated" means in a state of intoxication accompanied by a perceptible act, a series of acts or the appearance of an individual that clearly demonstrates the state of intoxication.
86. **Wholesale container:** "Wholesale container" means a sealed package in which adult use marijuana, marijuana concentrate and marijuana products are conveyed during an authorized transfer.

Section 2 – Licenses and Licensing

2.1 - Licensing Overview

2.1.1 License Classes Identified. The general classes of licenses for marijuana establishments are cultivation facility, testing facility, products manufacturing facility and marijuana store.

2.1.2 Licensing Process for all Classes of Marijuana Establishments. The application process for all forms of marijuana establishment licenses shall include the following steps:

- A. The applicant submits an application for a conditional license, including all forms and supplemental information required by the Department. It is the exclusive responsibility of the applicant to clearly indicate on any forms, attachments, and supplemental information supplied to the Department any content the applicant deems to be trade secrets or other information that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding, which may otherwise be included as a “public record” pursuant to 1 MRS § 402(3) in a response to a request for records and information under the Maine Freedom of Access Act.
- B. The State Bureau of Identification conducts fingerprinting and criminal history record check of all true parties of interest pursuant to Rule 2.4.3.
- C. Within 90 days of receiving all application forms, supplemental materials, and criminal history record check results required for the issuance of a conditional license, the Department shall either deny the license or issue a non-renewable conditional license valid for up to one year. A conditional license does not grant the authority to cultivate, test, manufacture, sell, or otherwise possess or transfer marijuana or marijuana products.
- D. The holder of the conditional license must then secure local authorization to locate the marijuana establishment in a municipality, town or plantation that has voted to allow that class of marijuana establishment, or in a township where the county has opted in to allow that class of marijuana establishment.
 - (1) If located in a municipality, the conditional licensee may appeal, under Maine Rules of Civil Procedure, Rule 80B, the municipality’s denial of approval or failure to act on the application as described in 28-B MRS§402(5).
 - (2) If located in an unorganized or deorganized area, the conditional licensee may appeal, under Maine Rules of Civil Procedure, Rule 80B or 80C, the denial of approval or failure to act on the application by the town, plantation, county or Maine Land Use Planning Commission, as described in 28-B MRS§403(5).
 - (3) If the proposed location is in a municipality, the Department may not proceed until the municipality transmits to the Department its approval on the local authorization form issued by the Department.
 - (4) If located in an unorganized or deorganized area, the Department may not proceed until the Land Use Planning Commission transmits to the Department its approval, and the approval of the town, plantation, or (in the case of townships) county commission on the local authorization form issued by the Department.
 - (5) It is the responsibility of the municipality, or the responsibility of Land Use Planning Commission, in coordination with the town, plantation or county commission, to submit copies of the relevant written permits, warrant article or other agreement affecting the licensee’s operations to the Department as an attachment to the local authorization form.
 - (6) It is the responsibility of the licensee to comply with the terms of the local permit or warrant article authorizing marijuana establishments, any local ordinance and land use standards, other warrant article affecting operations and any other conditions of local approval, even if such requirements have not been communicated to the Department.
- E. Within 10 days of receiving the local authorization form from the municipality or Maine Land Use Planning Commission, the Department shall notify the conditional licensee of the remaining requirements for an active license.

- F. The conditional licensee must then submit a facility plan and other required plans required for the class of license applied for, showing the location of the establishment within the municipality, town, plantation or township.
- G. The conditional licensee must obtain a sales tax identification number unique to the marijuana establishment and submit proof of registration with the State Tax Assessor.
- H. A conditional cultivation facility licensee must additionally:
 - (1) Submit up-to-date operating and cultivation plans.
 - (2) Obtain an Excise Tax Identification Number unique to the marijuana establishment and submit proof of registration with the State Tax Assessor.
- I. The conditional licensee must submit in writing a description of any material changes, including but not limited to recent arrests, administrative sanctions or ownership changes, or an affirmation that no material changes have taken place.
- J. Based on the additional information submitted by the conditional licensee, the Department may deny the application for an active license in accordance with 28-B MRS§206.
- K. Upon the conditional licensee's satisfaction of all other requirements for an active license, the Department shall then invoice the conditional licensee for the applicable license fee. No payment of this initial license fee may be accepted by the Department unless invoiced by the Department.
- L. When all requirements have been met, the Department shall issue an active license valid for one year, or in the case of a testing facility that has met all requirements other than third-party accreditation, a provisional license valid for one year and renewable only once.
- M. The licensee must submit renewal applications no less than 30 days prior to the date of expiration of the license, including obtaining continued local authorization.
- N. The licensee must apply for Department approval whenever relocating a marijuana establishment or transferring any ownership, financial or management interest in the marijuana establishment. Department approval of any marijuana establishment relocation is contingent upon approval of the relocation by the relevant municipal official(s).

2.2 - Classes of Marijuana Establishment Licenses

2.2.1 Cultivation Facility License.

- A. The Department may issue the following types of cultivation facility licenses:
 - (1) **Tier 1 cultivation facility license.** The two subcategories of tier 1 cultivation facility license are plant-count-based tier 1 cultivation facility license and plant-canopy-based tier 1 cultivation facility license:
 - (a) **Plant-count-based tier 1 cultivation facility license.** Allows cultivation of a specified number (not more than 30) of mature marijuana plants and an unlimited number of immature marijuana plants and seedlings;
 - (b) **Plant-canopy-based tier 1 cultivation facility license.** Allows cultivation of not more than 500 square feet of plant canopy of mature plants.
 - (2) **Tier 2 cultivation facility license.** Allows cultivation by a licensee of not more than 2,000 square feet of plant canopy of mature plants;
 - (3) **Tier 3 cultivation facility license.** Allows cultivation by a licensee of not more than 7,000 square feet of plant canopy of mature plants;
 - (4) **Tier 4 cultivation facility license.** Allows cultivation by a licensee of not more than 20,000 square feet of plant canopy of mature plants, except as approved by the Department pursuant to 28-B MRS§304; or
 - (5) **Nursery cultivation facility license.** Allows cultivation by a licensee of not more than 1,000 square feet of plant canopy, subject to the requirements and restrictions of 28-B MRS§501(3).
- B. A tier 1, tier 2, tier 3 or tier 4 cultivation facility license permits the following activities, subject to all requirements of Maine Title 28-B and this Rule:
 - (1) Planting and raising marijuana plants, subject to the limits associated with each tier of license described above;
 - (2) Harvesting and trimming marijuana plants;
 - (3) Storing harvested marijuana flower and marijuana trim;

- (4) Packaging marijuana flower and marijuana trim into individual retail units for wholesale to a marijuana store; and
- (5) Selling and transporting as authorized marijuana flower and marijuana trim to testing facilities, products manufacturing facilities or marijuana stores.

A tier 1, tier 2, Tier 3, or tier 4 cultivation license does not exempt the licensee from electrical permitting and inspection requirements and does not authorize sales to consumers.

- C. A nursery cultivation facility license permits the following activities, subject to all requirements of 28-B MRS and this Rule:

- (1) Planting and raising immature marijuana plants, subject to the limits described above;
- (2) Planting and raising mature marijuana plants, subject to the plant canopy square footage limits in Section 2.2.1 (A)(e) of this Rule, solely for the purpose of propagating seedlings or immature marijuana plants or collecting seeds, in an area clearly delineated from areas used for planting and raising immature marijuana plants and seedlings;
- (3) Collection of marijuana seeds for sale;
- (4) Preparation of marijuana seedlings and immature plants for sale;
- (5) Selling marijuana seeds, seedlings and immature plants to cultivation facilities and marijuana stores;
- (6) Selling unlimited marijuana seeds, and a sum total of 12 seedlings and immature plants to a consumer 21 years of age or older provided the premises has age restricted retail areas in compliance with Section 3.2.2 of this Rule; and
- (7) Selling agricultural or gardening supplies relating to the cultivation of marijuana, including agricultural chemicals approved for use in marijuana cultivation and electrical equipment that is approved by being listed by a nationally recognized testing laboratory or approved by the authority having jurisdiction.

A nursery cultivation facility license does not exempt the licensee from electrical permitting and inspection requirements.

2.2.2 Testing Facility License.

Reserved for routine technical rulemaking as defined in 5 MRS, chapter 375, subchapter 2-A.

2.2.3 Products Manufacturing Facility License.

- A. A products manufacturing facility license permits the following activities, subject to all requirements of 28-B MRS and this Rule:
 - (1) Purchasing adult use marijuana from licensed cultivation facilities;
 - (2) Purchasing adult use marijuana concentrate from other licensed products manufacturing facilities;
 - (3) Extracting cannabinoids from marijuana or marijuana plants;
 - (4) Preparing, weighing, packaging, labeling and storing inhaled marijuana products, edible marijuana products or tinctures and/or topical marijuana products using marijuana or marijuana concentrate;
 - (5) Selling or authorized transport of marijuana concentrate to licensed products manufacturing facilities; and
 - (6) Selling or authorized transport of marijuana products to licensed marijuana stores.
- B. A products manufacturing facility license does not permit the manufacture or assembly of any goods other than marijuana products, including without limitation pipes, other smoking paraphernalia, reusable storage containers or any other items that do not contain marijuana and/or are not intended for consumption. A manufacturing facility may assemble packaging and labeling for use on their products if packaging and labeling is consistent with the requirements of governing statute and standards contained in this Rule.
- C. A products manufacturing facility shall comply with all generally applicable kitchen-related health and safety standards of the relevant local jurisdiction and of the State of Maine Food Code, Department of Health and Human Services (Chapter 200) and Agriculture, Conservation and Forestry (Chapter 331), except that, for the purposes of these rules, the addition of marijuana or THC to food shall not be considered impermissible adulteration.
- D. Preparation of all marijuana products, unless otherwise specified, shall comply with all provisions of the State of Maine Food Code, including rules relating to potentially hazardous foods, food preparation areas

and all other safety related provisions, unless otherwise specified. For the purposes of these rules, the addition of marijuana or THC to food shall not be considered impermissible adulteration.

- E. A products manufacturing facility licensee must meet electrical codes and municipal, state, and federal environmental requirements.
- F. Adult use marijuana products shall comply with all other provisions of this Rule, including the use of solvents and inherently hazardous substances.

2.2.4 Marijuana Store License.

- A. A marijuana store license permits the following activities, subject to all requirements of 28-B MRS and this Rule:

- (1) Purchase adult use marijuana, pre-packaged retail units of marijuana flower and marijuana trim, immature marijuana plants and seedlings from a licensed cultivation facility;
- (2) Purchase packaged adult use marijuana and adult use marijuana products from a products manufacturing facility;
- (3) Store adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings;
- (4) Conduct authorized transports of adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to another licensed marijuana store or licensed testing facility;
- (5) Sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers;
- (6) Sell consumable products not containing marijuana, tobacco, or alcohol, including, but not limited to: soft drinks, candies and baked goods.

A marijuana store license does not exempt the licensee from any state or local permitting and inspection requirements.

2.3 - Qualifications

2.3.1 General Licensing Criteria. An applicant for a license to operate a marijuana establishment must meet each of the following requirements, if applicable. Except as otherwise provided in this Section, if the applicant is a business entity, every true party of interest of the business entity must meet each of the requirements of this Section. An applicant shall disclose in or include with its application the names and addresses of the applicant and all natural persons and business entities having a direct or indirect financial interest in the applied-for license and the nature and extent of the financial interest held by each person or entity and, if applicable, the nature and extent of any financial interest the person or entity has in any other license applied for or issued under this chapter.

- A. **Age.** The applicant must be at least 21 years of age. If the applicant is a business entity, every officer, director, manager and general partner of the business entity must be at least 21 years of age.
- B. **Resident.**
 - (1) If the applicant is a natural person, the applicant must certify that he or she is a resident of the State of Maine as defined by this Rule.
 - (2) If the applicant is a business entity:
 - (a) Every officer, director, manager and general partner of the business entity must be a natural person who is a resident of the State of Maine. The applicant shall demonstrate to the Department that every officer, director, manager and general partner of the business entity is a natural person who is a resident of the State of Maine; and
 - (b) A majority of the shares, membership interests, partnership interests or other equity ownership interests as applicable to the business entity must be held or owned by natural persons who are residents or business entities whose owners are all natural persons who are residents of the State of Maine. The applicant shall demonstrate to the Department that a majority of the shares, membership interests, partnership interests and other equity ownership interests are held by residents of the State of Maine.
 - (3) This subsection does not apply to an applicant for a testing facility license.
- C. **Incorporated in State.** If the applicant is a business entity, the business entity must be incorporated in the State of Maine or otherwise formed or organized under the laws of the State.
- D. **Prohibited persons.**

- (1) Not employee of state agency. The applicant may not be employed by the Department or any other state agency with regulatory authority under this chapter or the rules adopted pursuant to this chapter. The applicant must disclose any current state employment.
 - (2) Not law enforcement officer or corrections officer. The applicant may not be a law enforcement officer; a corrections officer as defined in 25 MRS§2801-A(2); or any other natural person subject to the certification requirements of 25 MRS, chapter 341.
- E. Good conduct and character.**
- (1) No disqualifying drug offense. The applicant is not currently subject to prosecution for, or has not been convicted of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation or use of a controlled substance, except that the Department may grant a license to an applicant if the applicant:
 - (a) Completed his or her sentence, including any term of probation, incarceration or supervised release, 10 or more years prior to the submission of the application; or
 - (b) In the 10 years immediately preceding his or her application date, has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the applicant was convicted of the offense on the date he or she applied for a license.
 - (2) No other disqualifying offense. Applicants are required to disclose, and the Department shall consider, all convictions within the 10 years immediately preceding the submission of the application and all pending criminal prosecutions and criminal convictions other than disqualifying drug offenses to determine the applicant's character. This shall include misdemeanor convictions and convictions in other jurisdictions related to crimes of dishonesty or physical violence including fraud or theft. The Department may request supplemental information regarding any convictions older than 10 years that is identified by a background check. Factors the Department shall use in considering whether the applicant's previous convictions are disqualifying include, but are not limited to:
 - (a) The recency of the offense(s);
 - (b) The number and frequency of offenses;
 - (c) Whether the offense(s) involved dishonesty, deception, misappropriation or fraud;
 - (d) Whether the offense(s) involved violence or threat of violence;
 - (e) Whether the offense(s) involved operation of a motor vehicle under the influence of drugs or alcohol;
 - (f) Evidence of rehabilitation, including employment and educational attainment; and
 - (g) Character references submitted by the applicant.
 - (3) No license revocation. The applicant, or if the applicant is a business entity, any officer, director, manager or general partner of that entity, may not have had previously had revoked a license issued under this chapter.
 - (4) No medical registry identification card or registration certificate revocation. The applicant or any officer, director, manager and general partner if the applicant is a business entity, may not have had revoked a registry identification card or registration certificate previously issued pursuant to the Maine Medical Use of Marijuana Act.
 - (5) No revocation of other state marijuana license, permit, certificate or other government-issued authorization. The applicant or any officer, director, manager or general partner if the applicant is a business entity, may not have had revoked a license, permit, certificate or other government-issued authorization issued in another jurisdiction allowing the cultivation, manufacture, testing or sale of marijuana or marijuana products.
 - (6) No outstanding court-ordered payments. A license may not be issued to an applicant if that applicant, or any business entity in which that applicant is a true party of interest, has any outstanding payments due on court-ordered fines, court-appointed attorney's fees or court-ordered restitution. Except that the Department may issue a license to an applicant if it is satisfied that the applicant has entered into and is in compliance with the terms of any agreement or payment plan for the remittance of any fines, fees, or restitution owed.
 - (7) No past due taxes, interest, penalties or fees in Maine. A license may not be issued to an applicant if that applicant, or any business entity in which that applicant is a true party of interest, is currently delinquent in any payment of income tax, sales tax, excise tax or any other tax, interest, penalty or fee to the state or any municipality within the state. Except that the Department may

issue a license to an applicant if it is satisfied that the applicant has entered into and is in compliance with the terms of any agreement or payment plan with the relevant tax authority overseeing the tax liability for which the applicant is otherwise delinquent.

- (8) No other disqualifying tax delinquency. The Department shall consider all applicants' history of paying taxes to Maine and other jurisdictions in the previous 2 years, as well as any tax liens imposed in any jurisdiction in the previous 5 years.
- F. **Criminal history record check.** The applicant must have submitted to a criminal history record check in accordance with the requirements of 28-B MRS and this Rule.
- G. **Compliance with application process; no false statement of material fact.** The applicant must have completed all application forms required by the Department fully and truthfully and complied with all information requests of the department relating to the license application. A license may not be issued to an applicant that has knowingly or recklessly made any false statement of material fact to the Department in applying for a license under this chapter. The Department shall revoke the license of a licensee pursuant to 28-B MRS, chapter 1, subchapter 8 if, subsequent to the issuance of the license, the Department determines that the licensee knowingly or recklessly made a false statement of material fact to the Department in applying for the license.

2.4 - Application for Conditional License

2.4.1 Conditional License. The Department may issue a conditional license to applicants for any class of marijuana establishment license.

- A. The conditional license is valid for one year and is non-renewable.
- B. The conditional license may be used to demonstrate that the applicant has met most of the Department's licensing requirements, for the purpose of seeking local authorization.
- C. The conditional license does not grant any authority for cultivation, manufacturing, testing or sale of marijuana or marijuana products.

2.4.2 Required Forms and Supplemental Information for Conditional License. All applicants for a marijuana establishment license shall include on forms supplied by the Department as well as attachments thereto, all information requested by the Department, including without limitation information described in this Section. It is the exclusive responsibility of the applicant to clearly indicate on any forms, attachments, and supplemental information supplied to the Department any content the applicant deems to be trade secrets or other information that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding, which may otherwise be included as a "public record" pursuant to 1 MRS § 402(3) in a response to a request for records and information under the Maine Freedom of Access Act.

- A. All applicants, for all classes of licenses, shall provide, on forms made available by the Department:
 - (1) The name of the applicant;
 - (2) An email account that is actively monitored;
 - (3) Date of application;
 - (4) The class of marijuana establishment license being applied for;
 - (5) Whether or not the licensee proposes to co-locate adult use and medical marijuana operations as permitted by this Rule and in accordance with rules governing the Maine Medical Use of Marijuana Program on the licensed premises;
 - (6) Identification of the applicant's proposed true parties of interest, including every officer, director, manager and general partner of the business entity;
 - (7) Identification of any parties of control or other interested parties, except that with respect to banks, credit unions, or other state- and federally-chartered financial institutions, the applicant must only disclose the name of the institution, its address, and terms of any financial instrument held by the bank, credit union, or other state- or federally-chartered financial institution in order to satisfy the requirements of this subsection;
 - (8) Identification of any other marijuana establishments, including those outside of Maine, in which the applicant (or any of the applicant's true parties of interest) is a true party of interest;

- (9) Attestation that the applicant has read the licensing requirements, and that all true parties of interest are age 21 years or older, meet residency requirements and do not have disqualifying drug convictions or other disqualifying criminal convictions; and
 - (10) A notarized signature page, attesting under penalty of perjury to the accuracy of the information provided in the application.
- B. At a minimum, all applicants shall provide, at the time of application, the following information:
- (1) Proof of lawful presence or citizenship and Maine residence, and as required by the current forms prescribed by the Department.
 - (2) All requested information concerning financial and management associations and interests of other persons, parties of control, other interested parties or true parties of interest in the marijuana establishment as applicable; except that with respect to banks, credit unions, or other state- or federally-chartered financial institutions, the applicant must only disclose the name of the institution, its address, and terms of any financial instrument held by the bank, credit union, or other state- or federally-chartered financial institution in order to satisfy the requirements of this subsection.
- C. If the applicant for any license is a business entity it shall submit applications for all of its shareholders, members, partners, officers and directors, along with the following additional information and supporting material:
- (1) If the business entity is a corporation, a copy of its articles of incorporation or articles of organization; evidence of incorporation within Maine; name, address and state of residency of each shareholder; and proof of Maine residency for true parties of interest and a majority of all parties of control.
 - (2) If the business entity is a limited liability company, a copy of its articles of organization and its operating agreement; evidence of incorporation within Maine; name, address and state of residency of each member; proof of Maine residency all officers and true parties of interest and a majority of all parties of control.
 - (3) If the business entity is a general partnership, limited partnership, limited liability partnership or limited liability limited partnership, a copy of the partnership agreement; evidence of incorporation in Maine; name, address and state of residency of each partner; and proof of Maine residency for all true parties of interest and a majority of all parties of control.
 - (4) The residency requirements of this subsection do not apply to an applicant for a testing facility license.
- D. The Department shall require evidence of compliance with all tax obligations.
- (1) The Department shall request, for each person subject to fingerprinting and criminal history record check:
 - (a) The person's Social Security Number and informed consent for the Maine Revenue Service to provide the Department with an assessment of whether the person owes back taxes, interest, fees or penalties.
 - (b) A list of sales tax identification numbers and employer identification numbers for all entities licensed in the state in which the person has a management role or ownership interest of 10 percent or more, along with informed consent for the Maine Revenue Service to provide the Department with an assessment of whether any of these entities owe back taxes, interest, fees or penalties.
 - (2) The Department shall request, for each business entity that is an applicant or a party of control, the business entity's employer identification number and any associated sales tax ID number, along with informed consent for the Maine Revenue Service to provide the Department with an assessment of whether any of these entities owe back taxes, interest, fees or penalties.

2.4.3 Criminal History Record Check.

- A. The Department shall require fingerprinting and state and federal criminal history record checks for every applicant.
 - (1) For applicants that are business entities, the Department shall require fingerprinting and criminal history record checks for:
 - (a) All true parties of interest; and

- (b) All other natural persons who exert influence over the licensee as or through a party of control.
- (2) The applicant is responsible for all costs associated with fingerprinting and criminal history record checks. The fee for the fingerprinting and criminal history record checks shall be set by the State Police and/or State Bureau of Identification, in accordance with its usual operations.
- (3) The Department shall issue a fingerprinting and criminal history record check form or use forms specified by the Department of Public Safety, Bureau of State Police, State Bureau of Identification or Federal Bureau of investigation. Such forms shall obtain the applicant's consent and information needed to complete the check, including but not limited to:
 - (a) First, middle and last name;
 - (b) Any aliases and/or previous names;
 - (c) Date of birth;
 - (d) Place of birth;
 - (e) Identifying information such as gender, height, weight and eye color;
 - (f) Disclosure of previous convictions;
 - (g) Driver license information; and
 - (h) Address and recent residency information.
- (4) The Department may request that an applicant disclose his or her Social Security Number if notice is provided that:
 - (a) Indicates the disclosure of the Social Security Number is voluntary; and
 - (b) That the Department requests the Social Security Number for the purpose of positively identifying the applicant during the criminal records check process.
- (5) All applicants required to submit to a criminal history record check under this Section shall submit to having the individual's fingerprints taken. The State Police, upon payment by the individual of the required fee, shall take or cause to be taken the individual's fingerprints and shall forward the fingerprints to the Department of Public Safety, Bureau of State Police, State Bureau of Identification.
- (6) The State Bureau of Identification shall conduct the state and national criminal history record checks, which shall include information from:
 - (a) The Maine Criminal Justice Information System, regarding records of offenses within the state
 - (b) The Federal Bureau of Investigation, regarding offenses in other jurisdictions
- (7) Except for the portion of a payment, if any, that constitutes the processing fee for a criminal history record check charged by the Federal Bureau of Investigation, all money received by the State Police under this Section must be paid to the Treasurer of State, who shall apply the money to the expenses incurred by the Department of Public Safety in the administration of this Section.
- (8) All criminal history record information obtained by the Department pursuant to this Section is confidential, is for the official use of the Department only and may not be disseminated outside of the department or disclosed to any other person or entity unless it is requested as part of a law enforcement investigation.
- (9) The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations (henceforth referred to C.F.R; the Code of Federal Regulations is available free online at multiple websites, including federal government websites, by searching the citation. All references are to the 2018 version) Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to 16 MRS§709.

2.4.4 Additional Requirements for Issuance of a Conditional Cultivation Facility License.

- A. Each applicant for a conditional cultivation facility license shall designate in its operating plan and cultivation plan the tier (or designation as a nursery cultivation facility) for the proposed cultivation facility.

- (1) Each applicant for a conditional tier 1 cultivation facility license must designate in its operating plan and cultivation plan whether the license sought is plant-count based or total plant canopy area based pursuant to 28-B MRS§301.
 - (2) Each applicant for a conditional nursery cultivation facility license must designate in its operating plan and cultivation plan whether it intends to sell marijuana seeds, seedlings or immature plants to adults, 21 years of age or older, who are not licensees.
- B. Each applicant for a conditional cultivation facility license must submit a preliminary operating plan, accompanied by a fully completed cover form made available by the Department, along with all supplemental information and documentation specified by the Department. At minimum, the preliminary operating plan shall include:
- (1) The proposed size of the cultivation facility;
 - (2) The proposed layout of the cultivation facility;
 - (3) Operating days and hours;
 - (4) Plans for wastewater and waste disposal for the cultivation facility, in compliance with all state and federal laws;
 - (5) The lights, irrigation, greenhouses and other equipment to be used and the approval listing;
 - (6) A list of all pesticides, fungicides, insecticides and fertilizers that will be present or used;
 - (7) Plans for providing electricity, water and other utilities necessary for the normal operation of the cultivation facility;
 - (8) Plans for ventilation and filtration systems that prevent marijuana plant odors from significantly altering the environmental odor outside, while addressing the potential for mold;
 - (9) A workplace safety plan consistent with 29 CFR Part 1910, covering personal protective equipment, hazard assessment, safe equipment operation, proper application of agricultural chemicals, ladder use, hazard communication and other state and federal workplace safety requirements;
 - (10) Plans for compliance with applicable building code, the National Fire Protection Association (NFPA) model fire code, the Maine Electrical Code, and federal and state environmental requirements; and
 - (11) A legal ingress onto property from the closest maintained public way;
 - (12) If the property is also used as a residence, the location of that residence within that property and plans for complete separation of the residence from the facility, including:
 - (a) Entirely separate entrances from the public right of way; and
 - (b) No solvent extraction using potentially hazardous extraction methods or inherently hazardous extraction methods in the same building or structure as the residence.
- C. Each applicant for a conditional cultivation facility license shall submit a preliminary cultivation plan, accompanied by a fully completed cover form made available by the Department, along with all supplemental information and documentation specified by the Department. The floor plan for a marijuana cultivation establishment must include the detail dimensions of all areas which the licensee is authorized to cultivate mature plants. At minimum, the cultivation plan shall cover:
- (1) A floor plan showing the proposed size and layout of the cultivation areas where the licensee intends to cultivate mature marijuana plants, showing exterior dimensions of the areas, drawn in straight lines and clearly stating the square footage of each area;
 - (2) A sum total of the combined area within the premises in which the licensee is authorized to cultivate mature marijuana plants;
 - (3) The total amount of plant canopy (or, in the case of a plant-count-based tier 1 cultivation facility license, the number of mature marijuana plants);
 - (4) A floor plan showing the proposed size and layout of the cultivation areas where the licensee intends to cultivate mature marijuana plants solely for the purpose of propagating seedlings, immature marijuana plants or collecting seeds, seedlings and immature marijuana plants, showing exterior dimensions of the areas, drawn in straight lines and clearly stating the square footage of each area and whether this square footage is within or outside the plant canopy;
 - (5) Clear delineation of where mature marijuana plants, marijuana plants solely used for propagation, immature plants and seedlings will be grown; and

- (6) Plans for physically separating areas where mature marijuana plants will be grown, from where marijuana plants solely used for propagation, seedlings and immature marijuana plants will be grown.
- D. Additional requirements apply to shared premises with a registered medical marijuana dispensary or registered marijuana caregiver.
- (1) Each applicant for a conditional cultivation facility license to share premises with a registered medical marijuana dispensary or registered marijuana caregiver must address the following issues in its operating plan:
 - (a) A list of all equipment to be used for cultivating both medical marijuana and adult use marijuana;
 - (b) A description of how the licensee will ensure that each shared piece of cultivation equipment is not used simultaneously on medical marijuana and adult use marijuana, with the purpose of ensuring that medical marijuana flowers and trim remain separate from adult use marijuana flowers and trim.
 - (2) Each applicant for a conditional cultivation facility license to share premises with a registered medical marijuana dispensary or registered marijuana caregiver must address the following issues in its cultivation plan:
 - (a) Indication on the floor plan, with the same level of detail, areas to be used for cultivating medical marijuana plants solely used for propagation, seedlings, immature plants and mature plants;
 - (b) Indication on the floor plan any areas that will support cultivation of both medical marijuana and adult use marijuana, including storage areas, office space, walkways, entryways, restrooms and utility rooms; and
 - (c) Plans for visually and physically separating medical marijuana cultivation from adult use marijuana cultivation.
 - (3) The licensee shall separately track medical marijuana and adult use marijuana and will otherwise ensure that they do not become intermixed.
- E. Additional requirements apply to issuance of a conditional nursery cultivation facility license authorizing sales to non-licensees. If an applicant intends to conduct sales to adults over the age of 21 who are not licensees, the applicant must submit an operating plan that meets all of the requirements for both a cultivation facility operating plan (as described in this subsection) and a marijuana store operating plan (as described in Subsection 2.4.7).

2.4.5 Additional Requirements for Issuance of a Conditional Testing Facility License.

Reserved for routine technical rulemaking as defined in 5 MRS, chapter 375, subchapter 2-A.

2.4.6 Additional Requirements for Issuance of a Conditional Products Manufacturing Facility License. Each applicant for a conditional products manufacturing facility license shall submit sufficient information to enable the Department to determine the applicant's ability to operate a marijuana products manufacturing facility meeting the requirements of 28-B MRS and this Rule. This information shall be contained in a products manufacturing facility operating plan, which at a minimum includes the following:

- A. A description of the classes of products such as edible, inhaled or topical that will be manufactured on the premises, along with a description of each specific product to be made;
- B. A description of the manufacturing processes that will occur on the premises;
- C. A diagram illustrating in which areas of the premises each manufacturing activity will occur;
- D. If the property is also used as a residence, the location of that residence within that property and plans for complete separation of that residence from the facility including:
 - (1) Entirely separate entrances from a public right of way; and
 - (2) No solvent extraction using potentially hazardous extraction methods or inherently hazardous extraction methods in the same building or structure as the residence;
- E. A diagram illustrating the areas of the premises where any solvent (excluding water), chemical or potentially hazardous substance will be stored
- F. Operating days and hours;
- G. Education and relevant experience of the person in charge of food safety requirements;

- H. Education and relevant experience of any employee who will oversee day-to-day food safety procedures;
- I. Equipment to be used, including UL or other safety listing;
- J. Standard operating procedures for each process to be used to manufacture a marijuana product;
- K. Plans for ventilation and filtration systems that prevent marijuana odors from significantly altering the environmental odor outside, while reducing the risk of fire or respiratory harm within the facility;
- L. Any extraction methods and solvents to be used for extraction;
- M. Any inherently hazardous substances to be used for extraction, along with the process for use, certification by a certified industrial hygienist or professional engineer licensed in Maine that the manufacturing facility's storage, preparation, electrical, gas monitoring, fire suppression and exhaust systems are adequate;
- N. Status of licensure of any areas in which marijuana or marijuana concentrate is handled or combined with non-marijuana ingredients to form marijuana products as a commercial kitchen area;
- O. Status of licensure of any areas in which unwrapped marijuana products are stored, cooled, cut, packaged or otherwise handled as a commercial kitchen area;
- P. Plans for compliance with any other relevant sanitary standards;
- Q. Plans for compliance with packaging, labeling and other requirements;
- R. Plans for refrigerating any marijuana products or ingredients thereof requiring refrigeration;
- S. Plans for disposal of marijuana and marijuana product waste;
- T. A workplace safety plan consistent with 29 C.F.R. 1910, covering personal protective equipment, hazard assessment, safe equipment operation, proper application of agricultural chemicals, ladder use, hazard communication and other state and federal workplace safety requirements; and
- U. Plans for compliance with applicable building and electrical codes and federal and state environmental requirements.

It is the exclusive responsibility of the applicant to clearly indicate on any forms, attachments, and supplemental information supplied to the Department any content the applicant deems to be trade secrets or other information that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding, which may otherwise be included as a "public record" pursuant to 1 MRS § 402(3) in a response to a request for records and information under the Maine Freedom of Access Act.

2.4.7 Additional Requirements for Issuance of a Conditional Marijuana Store License. Each applicant for a conditional marijuana store license shall submit sufficient information to enable the Department to determine the applicant's ability to comply with health and safety rules and operate a marijuana store meeting the requirements of the Maine Revised Statutes and this Rule. This information shall be contained in a marijuana store operating plan.

- A. A marijuana store operating plan must at a minimum include the following:
 - (1) Operating days and hours;
 - (2) Background screening process for employees and vendors;
 - (3) Plans for verifying identification of all customers and prevention of unauthorized sales to, or access to age-restricted retail areas by, persons under age 21;
 - (4) Layout of the store, indicating limited access areas and age-restricted areas;
 - (5) If the property is also used as a residence, the location of that residence within that property and plans for complete separation of the residence from the store, including:
 - (a) Entirely separate entrances from a public right of way; and
 - (b) No solvent extraction using potentially hazardous extraction methods or inherently hazardous extraction methods in the same building or structure as the residence.
 - (6) Descriptions or diagrams of displays indicating how they control customer access to marijuana and marijuana products;
 - (7) Descriptions of any electrical equipment and its UL or other safety listing;
 - (8) Plans for refrigerating any marijuana products requiring refrigeration;
 - (9) Plans for disposal of marijuana and marijuana product waste; and
 - (10) Plans for compliance with applicable building and electrical codes and federal and state environmental requirements.
 - (11) Plans for shipping and receiving of marijuana and marijuana products

- B. If the operating plan for a nursery cultivation facility includes sales to consumers, the operating plan shall meet all requirements that are applicable to marijuana stores in addition to all requirements that are applicable to nursery cultivation facilities.

2.4.8 Co-location - Medical Marijuana Dispensary and Caregiver Operation. Co-mingling of adult use marijuana and medical marijuana or marijuana products is prohibited, and licensees are responsible for maintaining separate adult use marijuana and medical marijuana operations.

- A. A cultivation facility with a marijuana store license, nursery cultivation facility, or standalone marijuana store shall not possess or otherwise handle any medical marijuana, marijuana concentrate or marijuana seeds, seedlings, immature plants or mature plants on the same premises on which the marijuana store or nursery cultivation facility operates.
 - (1) If a licensee for any of these types of facilities is also a registered caregiver or medical marijuana dispensary, it must not conduct medical marijuana activities under a Sales Tax Identification Number or Excise Tax Identification Number associated with an adult use license.
 - (2) If a cultivation facility with a marijuana store license, nursery cultivation facility, or standalone marijuana store is located adjacent to a registered caregiver or medical marijuana dispensary, it must have distinctly separate entrances from a public right of way and signage that does not convey the impression that the two businesses are connected. There must be no way that a member of the public may travel between the two businesses without returning to the public right of way.
 - (3) Public right of way shall be interpreted in this subsection to include private property that is generally open to the public during normal business hours, such as a shopping center or business park.
- B. Any cultivation facility or products manufacturing facility that cultivates, processes, manufactures, stores, dispenses or otherwise handles marijuana or marijuana products for both adult use and medical use must clearly differentiate the two types of marijuana and marijuana products and prevent their co-mingling within the premises at all times. If a licensee proposes to co-locate adult use and medical marijuana operations, the licensee must illustrate in its facility plan and security plan:
 - (1) The areas of the premises that will contain adult use marijuana plants, marijuana, marijuana products or marijuana concentrate;
 - (2) The areas of the premises that will contain medical marijuana plants, marijuana, marijuana products or marijuana concentrate;
 - (3) The areas of the premises, if any, that will contain equipment, chemicals or other items that may be used for both adult use and medical marijuana plants, marijuana or marijuana products.
 - (4) Plans for ensuring that all marijuana, finished marijuana concentrate and other marijuana products are correctly packaged and labeled for medical use or adult use; and
 - (5) A description of how the licensee will separately track, including input to the tracking system, medical marijuana, marijuana concentrate and marijuana products separately from adult use marijuana, marijuana concentrate and marijuana products and will otherwise keep them from becoming intermixed.
- C. Each applicant for a conditional cultivation facility license to share premises with a registered medical marijuana dispensary or registered marijuana caregiver, must address the following issues in its operating plan:
 - (1) A list of all equipment to be used for cultivating both medical marijuana and adult use marijuana;
 - (2) A description of how the licensee will ensure that each shared piece of cultivation equipment is not used simultaneously or contemporaneously on medical marijuana and adult use marijuana, with the purpose of ensuring that medical marijuana flowers and trim remain separate from adult use marijuana flowers and trim; and
 - (3) A description of how the licensee will separately track medical marijuana and adult use marijuana and will otherwise keep them from becoming intermixed.
- D. Each applicant for a conditional cultivation facility license to share premises with a registered medical marijuana dispensary or registered marijuana caregiver, must address the following issues in its cultivation plan:
 - (1) Indication on the floor plan, with the same level of detail, areas to be used for cultivating medical marijuana plants solely used for propagation, seedlings, immature plants and mature plants;

- (2) Indication on the floor plan any areas that will support cultivation of both medical marijuana and adult use marijuana, including storage areas for equipment and agricultural chemicals, office space, walkways, entryways, restrooms and utility rooms;
 - (3) Plans for visually and physically separating medical marijuana cultivation from adult use marijuana cultivation;
 - (4) Plans for visually and physically separating the storage of harvested medical marijuana flowers and trim from harvested adult use marijuana flowers and trim; and
 - (5) A description of how the licensee will separately track, including input to the tracking system, medical marijuana, marijuana concentrate and marijuana products separately from adult use marijuana, marijuana concentrate and marijuana products and will otherwise keep them from becoming intermixed.
- E. Each applicant for a conditional products manufacturing facility license to share premises with a registered medical marijuana dispensary or registered medical marijuana caregiver, must address the following issues in its operating plan:
- (1) A list of all extraction equipment and other supplies to be used for extracting from both medical marijuana and adult use marijuana;
 - (2) A list of all manufacturing equipment and other supplies to be used for manufacturing both medical marijuana products and adult use marijuana products;
 - (3) A description of how the licensee will ensure that each shared piece of extraction or manufacturing equipment is not used simultaneously or contemporaneously on medical marijuana and adult use marijuana, with the purpose of ensuring that medical marijuana, marijuana concentrate and marijuana products remain separate from adult use marijuana, marijuana concentrate and marijuana products;
 - (4) A description of how the licensee will separately track medical marijuana, including input to the tracking system, marijuana concentrate and marijuana products separately from adult use marijuana, marijuana concentrate and marijuana products and will otherwise keep them from becoming intermixed;
 - (5) Plans for storage and refrigeration that keep medical marijuana, marijuana concentrate and marijuana products remain separate from adult use marijuana, marijuana concentrate and marijuana products;
 - (6) Plans for ensuring that all finished marijuana concentrate and other marijuana products are correctly packaged and labeled for medical use or adult use;
 - (7) A clear indication on floor plans of which areas house equipment used to manufacture both medical marijuana and adult use marijuana products; and
 - (8) A clear indication of any areas used to store equipment, supplies or non-marijuana ingredients used to produce, package or label both medical marijuana products and adult marijuana products.

2.4.9 Co-Location of Adult Use Marijuana Establishments. An Applicant may propose the co-location of multiple marijuana establishment types.

- A. The Department may approve an application that would result in a testing facility being located adjacent to another type of adult use marijuana establishment or a medical marijuana dispensary, caregiver, or registered medical marijuana manufacturing facility, only if the following conditions are met:
- (1) The testing facility must have a distinctly separate entrance from a public right of way;
 - (2) The testing facility must demonstrate it has adequate environmental controls to protect against incidental contamination of testing equipment or samples as a result of its location adjacent to an adult use marijuana establishment, medical marijuana dispensary, caregiver, or registered medical marijuana manufacturing facility;
 - (3) Signage must not convey the impression that the two businesses are connected; and
 - (4) There must be no way that an employee of the testing facility or the other business may travel between the two businesses without returning to the public right of way. Public right of way shall be interpreted in this subsection to include private property that is generally open to the public during normal business hours, such as a shopping center or business park.

- B. If a cultivation facility is co-located with a products manufacturing facility or marijuana store, then all written plans must clearly delineate the cultivation facility from the other establishment.
 - (1) The cultivation facility area shall be clearly delineated from the other establishment.
 - (2) The cultivation facility may connect to another class of establishment by a single, lockable door. Regardless of common ownership, excise tax is payable when any marijuana seedlings, immature plants, marijuana, or marijuana products pass out of the cultivation facility into another class of marijuana establishment. All marijuana to pass through a single, lockable door must be entered into the tracking system, and excise taxes shall be paid in accordance with this Rule and the Maine Revised Statutes.
- C. If a products manufacturing facility is co-located with a marijuana store, then all written plans must clearly delineate all areas in which products manufacturing take place. Any shared space must comply with all regulations applicable to products manufacturing facilities and all regulations applicable to marijuana stores.
- D. No manufacturing facility using inherently hazardous materials may be co-located with a marijuana store unless it is in an entirely independently standing structure.

2.5 - Department Review of Conditional Applications

2.5.1 Ownership interest. The Department will verify that any marijuana establishment (other than a testing facility) is controlled by people who are legal residents of Maine and file all required Maine income tax returns.

- A. The Department may require additional information to verify that business structures, loans, franchise agreements, royalty agreements and other legal arrangements or anything else regarding true parties of interest, parties of control or other interested parties are not being used to circumvent ownership requirements; except that with respect to banks, credit unions, or other state- and federally-chartered financial institutions, the applicant must only disclose the name of the institution, its address, and terms of any financial instrument held by the bank, credit union, or other state- or federally-chartered financial institution in order to satisfy the requirements of this subsection.
- B. An application for license will not be considered complete until the applicant satisfies all such information requests.
- C. The Department may refuse to license any applicant at its discretion until it is convinced that Maine residents control its operations.

2.5.2 Application Processing. An application for a conditional license is considered incomplete until the Department is in possession of all required forms, supplemental information and criminal history record checks and any other requirements listed in 2.3.1 of this Rule for all required parties to the application. If in the course of processing the application, the Department discovers that any required forms, supplemental information or criminal history record checks are incomplete, the Department may ask the applicant to supply the missing information, and the Department has 90 days from the submission of the missing information to review the application. The Department shall, however, avoid unreasonable delays in the case of inadvertent omission of material that is not central to its review of the merits of the application for a conditional license.

2.5.3 Application Review. For the purposes of processing applications for marijuana establishments, the Department, pursuant to 28-B MRS§205, shall apply an objective standard to establishing whether an applicant has satisfied the marijuana establishment licensing requirements, specifically the satisfaction of general licensing criteria and the submission of all required documents, forms and fees and the subsequent issuance of provisional and active licenses.

2.5.4 Withdrawal.

- A. The Department and the applicant for a conditional license may mutually agree in writing to the voluntary withdrawal of an application.
- B. Applicants must first submit a notice to the Department requesting a voluntary withdrawal of the application.

- C. The Department will consider the request along with any circumstances at issue with the application in making a decision to accept the voluntary withdrawal. The Department may at its discretion grant the request with or without prejudice or deny the request.
- D. The Department will notify the applicant and relevant local jurisdiction of its acceptance of the voluntary withdrawal and the terms thereof.
- E. If the applicant agrees in writing to a voluntary withdrawal granted with prejudice, then the applicant is not eligible to apply again for licensing or approval until after expiration of one year from the date of such voluntary withdrawal.
- F. The Department may not refund any application or other fees, regardless of the circumstances of the withdrawal.

2.5.5 Denial. If the application for conditional license reveals disqualifying drug offenses, other mandatory disqualifying factors, or if the Department has serious concerns about the applicant's character based on the applicant's criminal record, disciplinary record with other government regulatory agencies or previous employment; the management or ownership structure; or the ability to meet all operating requirements, the Department shall set forth in writing a summary of reasons for the denial of the application. The denial shall include reference to the applicant's appeal rights under the Maine Administrative Procedures Act.

2.5.6 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375.

2.6 - Application for Active License, or Provisional Testing License

2.6.1 Forms. An applicant shall prepare an application on forms made available by the Department for the type of license sought along with the appropriate application fee as determined by the Department pursuant to 28-B MRS§207 and this Rule. In order for an application for a marijuana establishment to be considered complete, the following must be true:

- A. All applications must be complete and accurate in every material detail;
- B. All applications must include all attachments or supplemental information required by the current forms supplied by the Department and all sections of this Rule.
- C. A license issued to a marijuana establishment or an individual constitutes a revocable privilege. The burden of proving an Applicant's qualifications for licensure rests at all times with the applicant.
- D. The Department may refuse to accept or consider an incomplete application.

2.6.2 Local Authorization.

- A. In order for a marijuana establishment conditional licensee to be eligible for a marijuana establishment active license, the municipality or the Maine Land Use Planning Commission, whichever has jurisdiction over the planned site, must have submitted a signed and notarized local authorization certification form prepared and furnished by the Department.
- B. Upon receipt of the local authorization certification form, the Department shall, within 10 calendar days, notify the applicant of any additional information needed for the issuance of an active license or, in the case of testing facilities, a provisional license.
- C. Nothing in these rules shall be construed to prohibit local entities from implementing municipal or other local regulations further restricting the operation and siting of marijuana establishments, including, but not limited to regulations regarding the co-location of residences and marijuana establishments.

2.6.3 Tax Registration. The Department may not issue an active license to a conditional licensee that is not properly registered with the State Tax Assessor.

- A. Any conditional licensee must obtain a Sales Tax Identification Number. A unique Sales Tax Identification Number is required for each active license, regardless of common ownership or co-location.
- B. A conditional cultivation facility licensee, including a nursery cultivation facility licensee, must additionally obtain an Excise Tax Identification Number. A unique Excise Tax Identification Number is

required for each active cultivation facility license (including nursery cultivation facility), regardless of common ownership or co-location.

2.6.4 Application Review. For the purposes of processing applications for marijuana establishments, the Department, pursuant to 28-B MRS§205, shall apply an objective standard to establishing whether an applicant has satisfied the marijuana establishment licensing requirements, specifically the satisfaction of general licensing criteria and the submission of all required documents, forms and fees and the subsequent issuance of provisional and active licenses.

2.6.5 Supplemental Information for Issuance of Active License.

- A. All conditional licensees must submit the following forms and supplemental information:
- (1) Evidence of compliance with all municipal or state electrical inspection and permitting requirements; which may include, but is not limited to: a Certificate of Occupancy issued by the municipal code officer, or written clearance by the Electricians Examining Board, Department of Professional and Financial Regulations. Licensees engaging in manufacturing involving inherently hazardous materials shall also show proof of compliance with the requirements of Section 3.8.4 of this Rule.
 - (2) Sales Tax Identification Number and proof of registration with the State Tax Assessor.
 - (3) Facility plan, covering the following elements:
 - (a) Location of the establishment within the municipality, town, township, plantation or county, and indicating its proximity to any school. A copy of a tax map showing an area in all directions from the Premises of 1000 feet, or in cases where a municipality or the Land Use Planning Commission has reduced the setback to no less than 500 feet, then showing the distance in all directions required by local authority, and indicating that the area around the Premises does not include a pre-existing public or private school, as defined in 28-B MRS§§402(2)(A) and 403(2)(A), shall meet this requirement;
 - (b) Size and layout of the establishment, including limited access areas, display areas, commercial kitchen areas and points of entry;
 - (c) Proof of ownership of the premises or proof the owner's consent for the intended use of the premises;
 - (d) A legal ingress onto property from the closest maintained public way; and
 - (e) If the property is also used as a residence, the location of that residence within that property and plans for complete separation of the residence from the facility, including:
 - (i) Entirely separate entrances from a public right of way; and
 - (ii) No solvent extraction in the same building or structure as the residence.
 - (4) Security plan, consistent with Section 3.3 of this rule.
 - (5) Operating plan, if any changes were made to the original operating plan submitted by the applicant, or certification that the municipality or Maine Land Use Planning Commission required no changes.
 - (6) Proof that the marijuana establishment has a tracking system account activated and functional.
 - (7) Any material changes from the conditional license application, including but not limited to, any changes related to ownership or control, any changes in residency of any true parties of interest, and any new arrests or criminal charges of any true parties of interest
- B. Cultivation facilities (including nursery cultivation facilities) must additionally submit the following documents before the Department may issue an active license:
- (1) An updated cultivation plan, if any changes were made to the original cultivation plan submitted by applicant, or certification that the municipality or entity/entities responsible for local authorization required no changes; and
 - (2) Excise Tax Identification Number and proof of registration with the State Tax Assessor.
- C. Testing facilities must submit proof of compliance with any accreditation, certification, or standards required by the rules regarding licensure of a marijuana testing facility.

2.6.6 Payment of Fees. Before issuing an active license, the Department shall invoice the conditional licensee for the applicable fee as determined by the Department pursuant to Title 28-B and this Rule. The Department shall not accept any license fees except pursuant to such invoice.

2.6.7 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375.

2.7 - Individual Identification Cards

2.7.1 Individual Identification Cards Required.

- A. A valid individual identification card issued by the Department is required to be displayed by any individual working in a licensed marijuana establishment who:
 - (1) possesses, cultivates, processes, manufactures, tests, dispenses, transfers, serves, handles, transports or delivers marijuana or marijuana products; or
 - (2) has the authority to access or input data into the inventory tracking system or a marijuana establishment point of sale system.
- B. Licensees are responsible for verifying that each required person has a valid individual identification card and must report within 24 hours any attempt by an individual to use an individual identification card that is fake, altered or issued to a person other than the bearer.
- C. Contractors not engaged in the business of cultivating, processing or transferring marijuana or marijuana products do not require individual identification cards; however, no person may enter a limited access area without displaying a valid individual identification card, unless the person signs a visitor log and is supervised by the licensee according to the requirements of Section 3.2 of this Rule.
- D. The individual identification card requirement does not apply to employees or agents of the Department, law enforcement officers or employees or agents of other local or state agencies with regulatory authority, including but not limited to fire marshals, electrical inspectors, pesticide control staff and environmental inspectors, for the purpose of exercising such regulatory authority.

2.7.2 Issuance of Individual Identification Cards.

- A. The Department shall issue individual identification cards to natural persons licensed under Title 28-B.
- B. Upon request, the Department shall issue an individual identification card to a true party of interest who has participated in the license application process and has had fingerprinting and criminal history record checks approved by the Department within the past year, subject to the reporting of any arrests subsequent to the criminal history record check.
- C. Upon request, the Department shall issue an individual identification card for the purpose of employment to an applicant who:
 - (1) Submits to fingerprinting and criminal history record checks following procedures applicable to Licensees under this Rule;
 - (2) Submits proof of being of age 21 or older in a form satisfactory to the Department;
 - (3) Submits any other information required by the Department on its individual identification card application form, including history of enforcement actions in the adult use or medical marijuana programs; and
 - (4) Satisfies all requirements for the issuance of an individual identification card.
- D. The Department may deny an application for individual identification card by any person who:
 - (1) Has a disqualifying drug offense, any other disqualifying offense, adult use marijuana license revocation, medical marijuana credential revocation, outstanding court-ordered payments, past due taxes or fees or other tax delinquency;
 - (2) Has had an individual identification card revoked within the previous 2 years; or
 - (3) Has had been subject to 2 or more individual identification card revocations.
- E. Each licensee shall provide to the Department annually, and upon request of the Department at any other time, a list of all individual identification card numbers used by any owners, officers, managers, contractors, employees or other support staff of the licensee.

- F. A licensee shall timely notify the Department if it terminates for cause an individual identification cardholder.
- G. The Department shall maintain a list of all individual license cards that have been issued to individuals and any licensees that have reported an affiliation with the cardholder.

2.7.3 Format and Use of Individual Identification Cards.

- A. The Department shall charge fees for the issuance, reissuance and renewal of an individual identification card in accordance with the fee schedule located in Section 13 of this Rule.
- B. The individual identification card shall include a current photograph, full name, date of birth, expiration date and a unique identification number.
- C. Individual identification cards are valid for one year from the date of issue. The individual identification card shall be renewed on forms provided by the Department in accordance with the fee schedule located in Section 13 of this Rule; at the time of renewal of an individual identification card, the applicant shall inform the Department of all criminal convictions and other issues that could affect their eligibility since the original issuance of the individual identification card.
- D. All individual identification cards shall remain the property of the Department and shall be returned to the Department upon demand of the Department.
- E. No person shall alter, obscure, damage or deface an individual identification card in any manner. To be valid, all individual identification cards must be in good condition, with all original markings and information clearly legible.
- F. The holder of an identification card must notify the Department immediately if the individual identification card is lost, stolen or damaged. A fee, in accordance with the fee schedule located in Section 13 of this Rule, will be charged for the issuance of a reissued individual identification card, which will not extend the expiration date of the individual identification card it replaces.

2.7.4 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375.

2.8 - License Renewal Process

2.8.1 Annual Renewal.

- A. Active licenses must be renewed on an annual basis.
- B. An annual inspection by the Department or an authorized third-party may be required in the renewal process.
- C. A license will not be renewed by the Department if outstanding fines or penalties are owed to the Department, unless a plan for payment of those fines has been agreed to and approved, in writing, by the Department, prior to the expiration of an active license.
- D. The Department shall notify all licensees of the duty to renew no later than 90 days prior to the expiration date of an active license.
- E. A cultivation facility licensee may apply for a different tier of cultivation facility license or increased number of plants or canopy, and the Department shall approve the application, subject to:
 - (1) Submission of revised operation plan and cultivation plan;
 - (2) Payment of any requisite fee(s) in accordance with Section 13.1 of this Rule;
 - (3) Licensee demonstrating 85% of adult use marijuana cultivated by licensee at its cultivation facility was sold over the current period of licensure; and
 - (4) Compliance with total canopy limits.
- F. At the time of renewal, the licensee shall ensure that all material changes to the required plans have been communicated in writing to the Department pursuant to Section 3.5 of this Rule.
- G. The licensee shall submit proof that the licensee is still in good standing with MRS.
 - (1) For all licensees, an active Sales Tax Identification Number, and no tax delinquencies associated with that Sales Tax Identification Number.
 - (2) For cultivation facility licensees, an active Excise Tax Identification Number, and no tax delinquencies associated with that Excise Tax Identification Number.

- (3) For all licensees, a list of all Sales Tax Identification Numbers and Excise Tax Identification Numbers associated with any related marijuana establishment in Maine and no tax delinquencies associated with those numbers.
- H. The licensee shall submit proof, through a renewed local authorization certification form, that the licensee is still in compliance with all requisite local permits and licenses, and is in good standing with the municipality or other local entity wherein the licensee's facility is located.

2.8.2 Application to Change Tier of Cultivation License. If an application to change the operating plan of record changes the license tier related to the total area in square feet of total mature plant canopy, the applicant shall include, on forms made available by the department, an application to change the tier of the license.

- A. Requests to change the tier of cultivation license may only be done as part of a license renewal and must be pursuant to 28-B MRS§303.
- B. If the change of tier includes the total area in square feet of total canopy of mature plants exceeding the limit stated in 28-B MRS§205(2), paragraph A, then the changes must be made and approved by the Department pursuant to 28-B MRS§304.

2.8.3 Continued Authority.

- A. The Department shall make every effort to approve license renewals in a timely manner.
- B. A licensee that has submitted a timely renewal application by the deadline given by the Department shall be permitted to continue operations if no true party of interest is required, pursuant to these Rules and 28-B MRS, to report information, including criminal convictions or enforcement actions, that could affect continued eligibility.
- C. A cultivation facility may not increase its mature plant canopy beyond the limits of its type of license before receiving approval from the Department.
- D. Any application for change in ownership or control must be approved by the Department and is not considered a renewal application.

2.8.4 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375.

2.9 - Application for Relocation of Licensed Premises

The Department must approve any relocation of a marijuana establishment, even if the move is entirely within a premise in the control of the licensee. This includes, but is not limited to: expansion, movement of a greenhouse or changes to co-location of multiple establishment types.

2.9.1 Conditional Relocation of Licensed Premises Approval.

- A. Before seeking local authorization, the licensee must inform the Department, in writing of its application for relocation of licensed premises.
 - a. All licensees must submit an updated facility plan, security plan, operating plan and proof of compliance with all municipal or state electrical inspection and permitting requirements.
 - b. All cultivation facilities must submit a revised cultivation plan.
- B. The Department shall, within 30 days, issue a conditional relocation of licensed premises approval.
- C. All licensees must then obtain, as applicable, local authorization.
- D. The relevant authority must submit a local authorization form to the Department.

2.9.2 Updated License.

- A. Within 10 days of receiving authorization on the local authorization form, the Department shall notify the licensee and issue an updated license with the new address. The license shall have the same expiration date as the one it replaces.

- B. A marijuana establishment may operate at the new location only after receiving the updated license from the Department.
- C. After receiving the updated license, the marijuana establishment may conduct activity concurrently at both locations, subject to the following limitations:
 - (1) The licensee shall provide the department with timeline of planned relocation not to exceed 90 days.
 - (2) From the moment the licensee transfers any marijuana or marijuana products in any form to the new location, the licensee has no more than 90 days to cease all activities at the old location. During the period of transfer, the licensee may not begin any new operations in the old location.
 - (3) From the moment the licensee sells or otherwise transfers marijuana or marijuana products in any form to the new location, the licensee may no longer sell or transfer marijuana or marijuana products in any form at the old location, except to transfer the marijuana or marijuana products to the new location.
 - (4) The licensee shall notify the Department in writing when it has ceased operations at the old location.
 - (5) During the period of transfer, limits of the number of plants or size of the plant canopy shall be calculated by combining the total amount of plants at both the old and new location.

2.9.3 Relocation with Any Change in Ownership. When a licensee proposes both a relocation and any change in ownership or management, the licensee shall be required to fulfill all requirements of an application for a new license, and the Department shall evaluate the application de novo.

2.9.4 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375.

2.10 - Transfer of License

A transfer of license is required at any time when there is a change to the true parties of interest who maintain a controlling share interest in the marijuana establishment, or otherwise when there is a change to the party of control of a marijuana establishment.

2.10.1 Department Approval Required. A transfer of license may only occur after an approval for the application for a transfer of license has been approved by the Department.

- A. An application for the transfer of license must:
 - (1) Be completed on forms made available by the Department;
 - (2) Be submitted to the Department;
 - (3) Be accompanied by any applicable fees described on the application form; and
 - (4) Be accompanied by all required forms and supplemental information similar to that required in an application for a marijuana establishment license, including without limitation changes to the operating plan or other plans specific to the license type.
- B. Fingerprinting and criminal history record checks in accordance with Section 2.4.3 of the Rule as described above are required for anyone proposed as a true party of interest.
- C. The municipality or the Maine Land Use Planning Commission, as applicable, must submit the local authorization form.

2.10.2 Temporary Appointee. Ownership or operations generally may not be transferred to a person or business entity prior to the approval of an application for transfer of license. However, in cases of death, disability, bankruptcy or other exceptional circumstances, a court may appoint a receiver, personal representative, executor, administrator, guardian, conservator, trustee or similarly situated person to take possession of, operate, manage or control a licensed marijuana establishment. Under such circumstances:

- A. The court appointee may assert a financial and management interest in a marijuana establishment upon certification to the Department that the person is 21 years of age and has no disqualifying drug offenses.

- B. No person appointed by the court may enter a limited access area, sell or otherwise transfer without a valid individual identification card.
- C. No person may use the tracking system until authorized by the Department.
- D. The person shall submit application for transfer of a license as soon as practical, and in no case more than 45 days after a qualifying event.

2.10.3 License Invalidation. The Department may revoke or otherwise make void a license immediately upon discovery of any effort to transfer ownership or control of a license without complying with the requirements of this subsection.

2.10.4 Appeals. An applicant may appeal an application denial pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 375

Section 3 - General Compliance

3.1 - Reporting of Ownership, Financial, Management and Other Interests

Licensees shall not attempt to conceal or disguise ownership or other control over their operations. Any change thereof requires Departmental approval prior to becoming effective. The Department retains discretion to determine when a transfer of ownership or control has occurred. Licenses must comply with all reporting requirements of this subsection. It is the exclusive responsibility of the applicant to clearly indicate on any forms, attachments, and supplemental information supplied to the Department any content the applicant deems to be trade secrets or other information that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding, which may otherwise be included as a "public record" pursuant to 1 MRS § 402(3) in a response to a request for records and information under the Maine Freedom of Access Act.

3.1.1 True Parties of Interest. A licensee is required to report, on forms provided by the Department, all true parties of interest related to the license. For any change in true parties of interest, the transfer of license procedures must be followed.

3.1.2 Parties of Control. A licensee is required to report, on forms provided by the Department, all parties of control related to the license.

3.1.3 Other Interested Parties. A licensee is required to report, on forms provided by the Department, any other interested parties that exert substantial influence over the licensee's business plan, marketing strategy or operations. Such parties may include the following individuals, groups of individuals and entities:

- A. **Lenders.** Persons, business entities, financial institution or other entities that lend money to a Licensee with the expectation of receiving repayment, with or without additional interest, or who otherwise expect to receive financial payments as a condition of lending. Except that with respect to banks, credit unions, or other state- and federally-chartered financial institutions, the applicant must only disclose the name of the institution, its address, and terms of any financial instrument held by the bank, credit union, or other state- or federally-chartered financial institution in order to satisfy the requirements of this subsection.
- B. **Third-party Contracted Managers.** Persons or other entities which provide ongoing management and/or consulting services to a Licensee for a period longer than 6 months.
- C. **Royalty License Partners.** Person(s) or other entities which expect to receive financial payment, including without limitation, royalty payments, profit share or revenue share, in return for the licensing of an intellectual property asset or proprietary property, whether or not such assets or property be trademarked or patented, including without limitation, standard operating procedures, brand names, products, packaging, marketing materials, business plans or financial projections.

3.1.4 Employees. Licensees are permitted to employ persons with valid individual identification cards for the operation of marijuana establishments, so long as compensation is not structured as a means of evading ownership restrictions. As employers, licensees are required to follow all applicable local, state and federal employment laws, including, without limitation, laws pertaining to workplace safety, whistleblower protections, hours and wages, equal opportunity employment, workplace harassment and all other laws pertaining to the employment of persons in the State of Maine. Nothing in this Rule shall be misconstrued to exempt a marijuana establishment license from the rights and responsibilities associated with being an employer.

3.2 - Premises

Only activities authorized by these Rules and 28-B MRS may be conducted on the licensed premises. No other activities besides those authorized by these Rules and 28-B MRS may be conducted at any time on the licensed premises, including without limitation: sampling events, catered events, parties, etc.

3.2.1 Public Access Areas.

- A. Marijuana establishments must designate an entry area as a public access area for limited purposes, which may include:
 - (1) For all establishment types, for maintaining a visitor entry log and for controlling access to limited access areas;
 - (2) For all establishment types, for receiving mail, meal deliveries and deliveries of supplies other than marijuana or marijuana products; and
 - (3) For nursery cultivation facilities and marijuana stores, for checking for a valid government-issued form of identification and controlling access to age restricted retail areas.
- B. The public access area must be designed so as not to enable a person in the area to handle marijuana or marijuana products.
- C. No advertising or marketing material may be posted in public access areas.
- D. People under the age of 21 shall be allowed in public access areas only for valid purposes.
 - (1) Valid purposes include delivering meals to employees; delivering office supplies not containing marijuana, agricultural chemicals or other non-age-restricted items; or seeking or providing emergency assistance.
 - (2) The licensee is responsible for ensuring that a person under the age of 21 does not remain in the public access area for longer than is necessary.

3.2.2 Age Restricted Retail Areas.

- A. Marijuana stores and nursery cultivation facilities must establish age restricted retail areas that allow access to adults aged 21 or older for the following purposes:
 - (1) Consultations between employees and adult customers;
 - (2) Distribution of printed materials about marijuana;
 - (3) Sales or returns of products that may be legally sold by the licensee; and
 - (4) Customer restrooms, if provided.
- B. No marijuana or marijuana products may be consumed in age restricted retail areas.

3.2.3 Limited Access Areas.

- A. Limited access areas include, but are not limited to:
 - (1) Areas in cultivation facilities in which marijuana plants, immature, plants or seedlings are grown; cut marijuana is stored, trimmed, cured or otherwise processed; marijuana is packaged for transfer; or marijuana waste is stored or processed.
 - (2) Areas in testing facilities in which marijuana or marijuana products are received, stored, handled, tested, transferred or discarded.
 - (3) Areas in marijuana product manufacturing facilities in which marijuana or marijuana concentrate is received, stored, processed or combined with other ingredients; marijuana products are stored, cooled, cut, packaged or labeled; marijuana or marijuana products are refrigerated; or marijuana waste is discarded or destroyed.
 - (4) Areas in marijuana stores in which a person would be able to touch or handle marijuana or marijuana products, including point of sale areas intended for employees only.
- B. Any other area that is used to cultivate, store, weigh, manufacture, package or otherwise prepare for sale adult use marijuana and adult use marijuana products is also considered a limited access area.
- C. It is the sole responsibility of the licensee to control access to limited access areas and limit access only to the following persons:
 - (1) The establishment's owners, managers or employees who are displaying a valid individual identification card issued to that person;
 - (2) Visitors over the age of 21 (including licensees of other establishments and not affiliated with the establishment) in compliance with this subsection;
 - (3) Contractors (including, but not limited to, electricians, plumbers, carpenters, engineers or alarm technicians) who will not handle marijuana plants, marijuana or marijuana products, in compliance with this subsection;
 - (4) Staff or agents of the Department;
 - (5) Law enforcement officers; and

- (6) Employees or agents of other local or state agencies with regulatory authority, including but not limited to fire marshals, electrical inspectors, pesticide control staff, and environmental inspectors.
- D. Staff or agents of the Department, law enforcement officers and employees or agents of local or state agencies with regulatory authority shall provide proof of identification but shall not be considered visitors and shall not be denied entry to any area of the Premises.
- E. Security.
- (1) Licensees shall use identification checks, locked doors, and video surveillance, in accordance with their Department-approved security plan, to prevent unauthorized entry to limited access areas.
 - (2) Licensees with age restricted retail areas must control access between age restricted retail areas and limited access areas, using counters, locked displays and locked doors, in accordance with their Department-approved security plan.
 - (3) Any security breaches must be reported within 24 hours, in writing, to the Department.
- F. Required Signage.
- (1) All areas of ingress and egress to limited access areas on the premises shall be clearly identified by posting a sign which shall be no smaller than 8.5 inches high and 11 inches wide, composed of letters not less than a half inch in height, which shall state: "Pursuant to State Law, Do Not Enter – Authorized Persons Only."
 - (2) If a person must pass through a limited access area to reach other limited access areas, and there is no other route through which a person can gain access to the subsequent limited access areas, then signage must only be posted on the first limited access area through which a person must pass.
- G. Visitors.
- (1) Licensees may allow visitors over the age of 21, subject to any established safety requirements, for legitimate purposes such as educating them about their operations or pursuing business opportunities.
 - (2) A visitor to a marijuana establishment may enter a limited access area only if wearing a visitor identification badge, signed in and recorded on a visitor entry log and accompanied at all times by a licensee or employee of the marijuana establishment being visited and who holds and displays a valid individual identification card.
 - (3) At all times while in a limited access area, the visitor shall display in a conspicuous place on their person a visitor identification badge.
 - (a) The visitor identification badge must display an identifying mark, which may be a clearly identifiable letter, number or symbol or combination thereof.
 - (b) The visitor identification badge may be displayed on a sticker, a card on a lanyard, a card pinned to the clothing of the visitor, or by other effective means.
 - (4) A visitor entry log must include, at a minimum:
 - (a) The date and time of the visitor's entry;
 - (b) The date and time of the visitor's departure;
 - (c) The full name of visitor;
 - (d) The identifying number of the visitor's state or federal identification;
 - (e) The identifying mark on the visitor identification badge;
 - (f) The individual identification card number of the person who will accompany the visitor while the visitor is in the limited access areas of the premises; and
 - (g) The purpose for which the visitor is accessing the limited access area[s].
 - (5) Any incident not compliant with the marijuana establishment licensee's authorized conduct that occurred while the visitor was in a limited access area of the premises must be reported in writing to the Department within 24 hours, including all information required by the visitor entry log.
- H. Contractors.
- (1) Contractors who will not handle marijuana plants, marijuana or marijuana products, including but not limited to electricians, plumbers, engineers and alarm technicians, do not require an individual identification card.
 - (2) A person who is on the premises as a contractor to the licensee, for purposes of doing temporary work that requires that they be within limited access areas must sign the visitor entry log and be issued a visitor identification badge.
 - (3) If the contractor is working in an area with immediate access to marijuana plants, marijuana or marijuana products, a licensee or employee must supervise the contractor at all times.

- (4) If the contractor is working in an area in which locked doors, compartments or other physical security measures prevent the contractor from accessing marijuana plants, marijuana or marijuana products, a licensee or employee must take reasonable precautions to ensure that the contractor remains in such areas and does not attempt to gain access to marijuana plants, marijuana or marijuana products.

3.3 - Security

3.3.1 Mandatory Requirements for All Classes of Licensees. All marijuana establishments must enact security measures to prevent the diversion of marijuana or marijuana products that are being cultivated, manufactured, tested, processed, stored, displayed or transported.

- A. Lighting
 - (1) Any gate or perimeter entry point of a marijuana establishment must have lighting sufficient for observers to see, and cameras to record, any activity within 10 feet of the gate or entry.
 - (2) A motion detection lighting system may be employed to light required areas in low-light conditions.
- B. Doors and windows
 - (1) Commercial grade locks, appropriate for facilities requiring high levels of physical security, are required on all perimeter entry doors and on all doors separating limited access areas from areas open to visitors and customers.
 - (2) All external entrances to indoor facilities on the licensed premises must be able to be locked.
 - (3) All perimeter windows must be in good condition and lockable.
- C. Alarm system
 - (1) Monitored sensors are required on all perimeter entry points and perimeter windows.
 - (2) Alarm systems must be monitored by a licensed security company capable of contacting the licensee and, if necessary, law enforcement.
 - (3) The system must include an audible alarm, which must be capable of being disabled remotely by the security company.
- D. Video surveillance
 - (1) Placement and coverage of cameras shall be sufficient:
 - (a) Cameras must be permanently fixed inside each entry/exit point (perimeter and limited access area) to allow identification of persons entering the premises and limited access areas.
 - (b) Cameras must be permanently fixed outside each entry/exit point (perimeter and limited access area) to allow identification of persons exiting the premises and limited access areas.
 - (c) A sufficient number of cameras must be permanently fixed to allow the viewing, in its entirety, of any area where marijuana, marijuana plants, immature marijuana plants, seedlings, seeds, marijuana concentrate or marijuana products are cultivated, processed, manufactured, stored, prepared for transfer or sale.
 - (d) A sufficient number of cameras must be permanently fixed to allow the viewing, in its entirety, of any area where marijuana waste is stored before being made unusable, or where marijuana waste is made unusable.
 - (e) A camera must be permanently fixed at each point of sale to monitor the identity of the purchaser and ensure facial identity.
 - (f) A sufficient number of cameras shall be permanently fixed to allow recording of all areas outside of the premises within 10 feet of the exterior fence and gates of a cultivation facility with outdoor growing.
 - (2) Video surveillance shall meet the following minimum requirements:
 - (a) Minimum camera resolution is 720p.
 - (b) System storage and cameras are internet protocol (IP) compatible.
 - (c) All cameras must record continuously twenty-four hours per day and at a minimum of 15 frames per second.

- (d) All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.
- (e) The surveillance system storage device must be secured on the premises in a lockbox, cabinet or closet, or must be on a third-party server or secured in another manner to protect from employee tampering or criminal theft.
- (3) All surveillance recordings must be kept for a minimum of 45 days on the licensee's recording device.
- (4) All videos are subject to inspection by any Department employee or law enforcement officer and must be copied and provided to the Department or law enforcement officer upon request.
- (5) Licensees shall maintain a list of all persons with access to video surveillance recording and procedures for controlling access to recordings.

3.3.2 Fencing and Lighting Requirements for Cultivation Facilities. A cultivation facility that cultivates seedlings, immature plants or mature plants in outdoor areas or in greenhouses that do not meet all security requirements for buildings must secure such cultivation areas with fencing and lighting.

- A. Any cultivation facility with cultivation areas that do not meet the requirements for building security shall erect secure fencing around such areas. Fencing and all gates must be secure, at least 6 feet high and obscure, or have a cover that obscures, the Limited Access Area from being readily viewed from outside of the fenced in area.
- B. Lighting shall be designed to illuminate a perimeter of at least 10 feet around any point of entry, whether it is a gate or access from a building.

3.3.3 Additional Security Measures. The licensee may choose to enact additional security measures to enhance the safety of the marijuana establishment.

- A. Measures to prevent employee theft:
 - (1) Licensees may designate areas for employee storage of bags, overcoats and other belongings.
 - (2) Licensees may place limits on the size of bags to be brought to the marijuana establishment.
 - (3) Licensees may institute other reasonable procedures for checking for stolen marijuana or marijuana products when an employee leaves the premises.
- B. Security guards:
 - (1) Security guards are permitted but not required at marijuana establishments.
 - (2) Security guards employed or contracted by a licensee must:
 - (a) Meet all qualifications of 32 MRS, chapter 93;
 - (b) Be at least 21 years of age;
 - (c) Comply with all requirements of 32 MRS, chapter 93; and
 - (d) Obtain and display individual identification cards if they will be in limited access areas or in a vehicle that is transporting marijuana plants, marijuana or marijuana products.
 - (3) Security guards must not consume marijuana or marijuana products or be intoxicated while performing any duties for a licensee.
 - (4) Licensees, employees and security guards must comply with all laws and regulations related to firearms and other weapons.

3.3.4 Written Security Plan. Before cultivating, testing, processing, selling, storing or transporting marijuana or marijuana products, each licensee shall receive Department approval of a written security plan, demonstrating compliance with all requirements of this Rule.

- A. At a minimum, the security plan shall provide sufficient detail so that the Department may determine whether the following requirements are met:
 - (1) Lighting adequately illuminates entry and exit points;
 - (2) All doors and windows are lockable;
 - (3) Fences (if present) meet height and other requirements;
 - (4) Alarm sensors are present on all entry points and windows and are remotely monitored;

- (5) Video cameras are present in all required locations;
 - (6) Video cameras and storage meet all required specifications;
 - (7) Points of passage between public access areas and age restricted areas (if any) or limited access areas are lockable and/or monitored whenever people may be present in public access areas; and
 - (8) In age restricted retail areas (if any), lockable and secure display cases or counters of sufficient height to prevent the public from handling marijuana plants, marijuana or marijuana products without direct supervision of a licensee or employee.
- B. Each licensee shall adhere to the security plan and submit in writing to the Department a revised security plan within 14 days any time a material change is made to security measures. The Department may, but is not required, to approve revised security plans. The Department may determine at any time that the revised security plan does not meet minimum requirements.
 - C. Material changes include, but are not limited to, the addition or removal of sensors or cameras, changing of monitoring companies, additions of points of entry and changes to lighting.

3.4 - General Conduct

3.4.1. General Requirements.

- A. Marijuana licensees are responsible for the operation of their licensed business in compliance with Maine Revised Statutes, Titles 28-B, 17-A, 36; this Rule; and any other applicable state laws and rules.
- B. Licensees and their employees must conduct the business and maintain the licensed premises, surrounding area, and vehicles transporting product, in compliance with the following laws, as they now exist or may later be amended:
 - (1) Falsification in Official Matters, 17-A MRS, chapter 19;
 - (2) Offenses against Public Order, 17-A MRS, chapter 21;
 - (3) Drugs, 17-A MRS, chapter 45
 - (4) Motor Vehicles and Traffic, 29-A MRS
- C. Licensees have the responsibility to control their conduct and the conduct of employees, customers and visitors on the licensed premises at all times. Licensees shall ensure that at all times during operating hours and hours of apparent activity that there is, on-site, an individual identification cardholder authorized to cooperate with Department inspection of the premises and business records. Except as otherwise provided by law, licensees or employees may not:
 - (1) Be disorderly or visibly intoxicated by liquor, marijuana or controlled substances on the licensed premises;
 - (2) Permit any disorderly or visibly intoxicated person to remain on the licensed premises;
 - (3) Engage in or allow behavior on the licensed premises that provokes conduct which presents a threat to public safety;
 - (4) Engage, or permit any employee or other person to engage in, conduct on the licensed premises that is prohibited by any portion of 28-B MRS, 17-A MRS or 36 MRS; any part of this Rule; or any other applicable state laws and rules;
 - (5) Permit anyone under the age of 21 to be in age restricted retail areas or limited access areas.
- D. Engage in or permit any employee or other person to engage in the consumption of any type of marijuana, marijuana concentrate or marijuana product on the premises, except:
 - (1) A licensee may allow an employee who is a qualifying patient to consume legally obtained medical marijuana or marijuana products, so long as no customer or visitor sees, smells, hears or otherwise observes the consumption of medical marijuana. No employer is required to accommodate the ingestion of medical marijuana in any workplace or any employee working while under the influence of marijuana, 22 MRS§2426(2)(B).
 - (2) A products manufacturing facility licensee or employee may ingest, consume or apply products for quality control, research or development purposes, so long as the licensee does not allow any products to be smoked on the premises and the licensee ensures that the person conducting the testing does not operate any equipment or machinery or a motor vehicle while under the influence of the marijuana product.
- E. Licensees are prohibited by this Rule from manufacturing, selling or offering for sale any marijuana item intended for intravenous delivery or that involves any type of injection involving piercing of the skin of a human or animal.

3.5 - Adherence to Written Plans Approved by the Department

Marijuana establishment licensees are required to conduct operations in accordance with all written plans submitted by the licensee as an applicant, conditional licensee or active licensee and approved by the Department as indicated by the issuance of a marijuana establishment license.

3.5.1 Covered Plans. The licensee is responsible for developing, obtaining approval for and adhering to any plans that the Department may require to promote public health, public safety and orderly operation of the adult use marijuana program in accordance with the 28-B MRS and this rule. At minimum:

- A. All marijuana establishments must develop, receive approval for and operate in accordance with:
 - (1) An operating plan;
 - (2) A facility plan; and
 - (3) A security plan.
- B. All cultivation facilities must additionally develop, receive approval for, and operate in accordance with a cultivation plan.
- C. All marijuana establishments must operate in accordance with:
 - (1) Any other written assurances regarding operations to the Department for the purposes of ensuring health and safety;
 - (2) Local ordinances, land use standards or warrant articles;
 - (3) Any permits issued, or conditions imposed by a municipality, town, plantation, county commission or the Land Use Planning Commission in connection with local authorization; and
 - (4) Any plans required by any other state agency or regulatory authority.

3.5.2 Plans of Record. The Department shall keep on file a copy of all facility plans, security plans, operating plans and cultivation plans, as well as copies of certifications of testing facilities. The most recent plan, whether submitted with the issuance of the marijuana establishment license, or by the subsequent approval of an application to change, shall be the plan of record with which the licensee must comply.

3.5.3 Licensee Responsibility. A marijuana establishment licensee is solely responsible for the operation of the marijuana establishment in accordance with the marijuana establishment operating plan of record on file with the Department.

3.5.4 Changes to Operating Plan or Cultivation Plan. Any significant changes to the operating plan of record of any marijuana establishment or the cultivation plan of a cultivation facility must be approved by the Department.

- A. An application to significantly change the operating plan of a marijuana establishment must be:
 - (1) Submitted on forms made available by the Department;
 - (2) Accompanied by all required fees associated with a change of operating plan; and
 - (3) Consistent with 28-B MRS, this Rule and any other applicable laws and rules.
- B. No licensee shall make changes to operations until the application for changes to the operating plan have been approved by the Department.
- C. Within 30 days of receiving an application for changes to the operating plan, the Department shall:
 - (1) Approve the application for changes to the operating plan and update the operating plan of record on file with the Department; or
 - (2) Deny the application for changes to the operating plan only if the changes requested are in violation of 28-B MRS, this Rule, conditions required for local approval or other applicable laws or rules.
- D. The Department may place an application for changes to an operating plan on hold if the marijuana establishment applying for the change of operating plan is currently under investigation for a violation of 28-B MRS, this Rule or other related laws or rules.
- E. The same procedures apply for changing a cultivation plan.
- F. For purposes of this section, a licensee proposing to co-locate a medical marijuana operation not currently operating on the premises shall constitute a change in the operating plan.

3.5.5 Changes to Facility Plan. Any changes to the facility plan must be approved. The licensee shall submit a revised facility plan to the Department 14 days prior to any material change. The Department may deny the application for changes to the facility plan if the changes requested are in violation of 28-B MRS, this Rule, conditions required for local approval or other applicable laws or rules

3.6 - Requirements Applicable to Cultivation Facilities

3.6.1 General Compliance. In addition to the general compliance requirements pursuant to this Rule, including without limitation Section 3, and all requirements pursuant to 28-B MRS, 36 MRS and all other applicable laws and rules, a marijuana cultivation licensee must comply with the requirements of this subsection 3.6.

3.6.2 Privileges Granted. A marijuana cultivation licensee shall only exercise those privileges granted to it by the Department. In accordance with 28-B MRS, this Rule and all other applicable laws and rules, a marijuana cultivation licensee may within limited access areas of the premises as described in the marijuana establishment operating plan of record:

- A. Propagate and cultivate marijuana plants;
- B. Process, trim, dry, cure and store marijuana;
- C. Prepare marijuana plants and marijuana for authorized transfer and participate in authorized transfers of marijuana plants and marijuana;
- D. Produce marijuana items:
 - (1) A marijuana cultivation establishment may package marijuana flowers and trim as marijuana items for retail sale; and
 - (2) A marijuana cultivation establishment may produce pre-rolled marijuana cigarettes, so long as the pre-rolled marijuana cigarettes contain only marijuana flowers or trim.
- E. Prepare marijuana waste for disposal and dispose of marijuana waste;
- F. Transfer marijuana samples to products manufacturing and marijuana store licensees pursuant to 28-B MRS and this Rule;
- G. Transfer marijuana testing samples to a licensed marijuana testing facility; and
- H. Performed authorized transfer of marijuana plants and marijuana.

3.6.3 Authorized Sources of Marijuana Plants and Seeds. A cultivation facility licensee may acquire marijuana plants and seeds by the following processes:

- A. By lawful purchase from another marijuana establishment, including a nursery cultivation facility.
- B. By gift from an individual person, who must be a resident of the State of Maine:
 - (1) A marijuana cultivation licensee may receive, by gift from an individual, only plants that qualify as marijuana seedling pursuant to this Rule
 - (2) If a marijuana cultivation licensee receives a marijuana plant or plants as a gift from an individual, the marijuana cultivation licensee shall record, on forms made available by the Department, the full name, contact telephone number and the identification number of a valid state identification belonging to the individual.
 - (3) The individual gifting the marijuana plant start to the licensee may not receive remuneration of any kind in return
 - (4) The gift of the marijuana plant start must not be conditional or contingent upon any other terms or requirements of the licensee.
- C. By way of limited authorization for the sale of marijuana plants (including seedlings, immature plants and mature plants) and marijuana seeds by registered caregiver or registered dispensary to marijuana cultivation licensee, pursuant to 28-B MRS§501(6):
 - (1) A cultivation facility licensee may not make such purchases unless the cultivation facility licensee is:
 - (a) A natural person who is also a registered caregiver or registered dispensary;
 - (b) A business entity that is also a registered caregiver or registered dispensary; or
 - (c) A business entity with identical ownership and ownership shares as registered caregiver or registered dispensary.

- (2) A cultivation facility may not make such purchases more than 1 year after it is first issued a cultivation facility license.
- (3) A cultivation facility may not make such purchases more than 2 years after the Department first issues a cultivation facility license to any other licensee.
- (4) A cultivation facility must enter all marijuana seedlings, immature plants, and mature marijuana plants acquired through such purchases into the tracking system.
- (5) A cultivation facility must report such purchases on a form supplied by the Department.
- (6) A cultivation facility must pay any excise tax that would have been owed if the same amount of marijuana plants or seeds had been sold by a cultivation facility.
- (7) Any marijuana seeds and marijuana must be transported in accordance with all requirements relevant to transfers between licensees.
- (8) A cultivation facility may not make such a purchase from a registered caregiver or registered dispensary that previously has made a sale of marijuana or marijuana seeds under this provision.
- (9) Any marijuana or marijuana seeds obtained in violation of this paragraph, and any marijuana derived therefrom, are subject to seizure and destruction by the Department, in addition to any administrative penalties that the Department may impose.

3.6.4 Marijuana Cultivation Establishment Premises.

- A. The premises of a marijuana cultivation establishment must comply with all security requirements described in Section 3.3.
- B. All electrical equipment, including but not limited to growing lights, cultivation equipment and packaging equipment, must be agency approved including UL, ETL, and CSA.
- C. Any cultivation of seedlings, immature plants or mature plants must take place in:
 - (1) A fully enclosed secure indoor facility or secure greenhouse with walls, a roof, lockable doors, and secure windows as described in Section 3.3 that prevent entry by unauthorized persons; or
 - (2) Within a secured fenced area, as described in Section 3.3, structures, or an expanse of open or cleared ground.
- D. The entire area within the fence surrounding non-secure greenhouses, other structures or expanse of open or cleared ground shall be considered a limited access area.
 - (1) An outdoor or greenhouse marijuana cultivation facility must provide sufficient security measures to demonstrate that outdoor areas are not readily accessible by unauthorized individuals.
 - (2) It shall be the responsibility of the licensee to maintain physical security in a manner similar to a cultivation facility located in an indoor licensed premises so it can be fully secured and alarmed.
- E. A nursery cultivation facility or a cultivation facility that also holds a marijuana store license on the same premises must use a fence or other adequate security measures to separate age restricted retail areas from limited access areas.

3.6.5 Authorized Mature Plant Canopy. At no time may a marijuana cultivation licensee cultivate mature marijuana plants in an area not clearly illustrated on the operating plan of record or cultivation plan of record, previously filed and approved by the Department. At no time may the total area in square feet in which mature marijuana plants are cultivated exceed the total area for which the marijuana cultivation licensee has been approved as indicated on the license issued to the licensee by the Department.

3.6.6 Hours of Operation.

A marijuana cultivation licensee may not, outside of the hours of operation stated on the operating plan of record, conduct the following activities:

- A. Harvest mature marijuana plants;
- B. Move immature and mature marijuana plants from one area of the premises to another;
- C. Transfer marijuana to or from a drying or curing area;
- D. Process marijuana;
- E. Create, change or combine a batch of marijuana items;
- F. Transfer or transport of any material tracked in the tracking system;
- G. Prepare marijuana waste to be unusable; or
- H. Dispose of marijuana waste.

Except that, in the event of an emergency due to unforeseen or otherwise unavoidable circumstances, the licensee may conduct the enumerated activities outside the hours of operation stated on the operating plan of record, for the purposes of protecting the licensee's marijuana inventory, provided that the licensee first provides notice to the Department regarding the character of the emergent circumstances, the activities to be conducted and the hours during which such activities will occur.

3.6.7 Cultivation of Medical and Adult Use Marijuana on the Same Premises. A cultivation facility may cultivate both medical marijuana and adult use marijuana only if: (1) it has received the Department's approval of an operating plan to cultivate both, and (2) it is a validly registered dispensary or caregiver. The cultivation facility must:

- A. Cultivate medical marijuana in an area physically and visually separated from the area used to cultivate adult use marijuana;
- B. Track all medical marijuana separately from adult use marijuana;
- C. Store all medical marijuana separately from adult use marijuana;
- D. Ensure that medical marijuana is never processed simultaneously or contemporaneously with adult use marijuana on the same piece of equipment;
- E. Keep a log of the following information for all equipment used to cultivate both medical marijuana and adult use marijuana:
 - (1) The name of the licensee or employee who operated the equipment;
 - (2) The tracking information for the marijuana or marijuana concentrate that was processed using the equipment;
 - (3) The exact date, time and duration the equipment was used; and
 - (4) The tracking information for the resulting marijuana concentrate or marijuana product; and
- F. Make the log for any piece of equipment available to the Department, the Maine Revenue Service or any law enforcement officer for inspection.

3.7 - Requirements Applicable to Testing Facilities

Reserved for routine technical rulemaking as defined in 5 MRS, chapter 375, subchapter 2-A.

3.8 - Requirements Applicable to Products Manufacturing Facilities

3.8.1 General Product Safety. In addition to other provisions in this Rule, 28-B MRS and all other applicable rules and laws, a marijuana products manufacturing facility must:

- A. Ensure that all equipment and surfaces that come into contact with any marijuana or other ingredients are food grade and made of materials that do not react adversely with marijuana, any ingredient, chemical or solvent being used;
- B. Construct, install and maintain all counters and surface areas in a manner that reduces the potential for development of microbials, molds, mildew, fungi and other contaminants and that can be easily cleaned;
- C. Maintain the premises in a manner that is:
 - (1) Free from conditions that may result in contamination; and
 - (2) Suitable to facilitate safe and sanitary operations;
- D. Provide adequate refrigeration for perishable marijuana products that will be consumed and utilize adequate storage facilities and transport methods;
- E. Ensure that all electrical equipment, including but not limited to equipment used for extraction, mixing, cutting and packaging; refrigerators; ventilation; and lights, is agency approved including UL, ETL, and CSA.
- F. Ensure that all chemicals and substances used in the manufacturing process are stored in a safe location on the premises and in a manner to prevent contamination of any marijuana or marijuana products; and
- G. Submit samples of product in accordance with operating plans of a certified laboratory, if required to test.

3.8.2 Prohibited Conduct. In addition to any other restrictions or prohibitions contained in this Rule, 28-B MRS and any other applicable rules or laws, a marijuana products manufacturing establishment may not:

- A. Manufacture a marijuana product that by its shape or design is likely to appeal to minors, including without limitation:
 - (1) Products that are modeled after non-cannabis products commonly consumed by and marketed to children; or
 - (2) Products in the shape of an animal, vehicle, person or character;
- B. Manufacture a marijuana product by adding or infusing marijuana into a commercially available non-cannabis end product;
- C. Manufacture any product that does not contain marijuana;
- D. Manufacture any edible marijuana product that has more than 10 milligrams of THC per serving;
- E. Package together for sale an edible marijuana product that has more than 100 milligrams of total THC; or
- F. Engage in the sale of marijuana, if required testing is not verified/verifiable with certificate of analysis, or if testing reports unsafe levels of potentially harmful substances.

3.8.3 Tracking. A marijuana products manufacturing facility must enter into the tracking system all required information each time a batch is created.

3.8.4 Extraction. A marijuana products manufacturing facility must conform with the standard operating procedures for extraction methods described in its operating plan of record for any extraction to be performed on the premises.

- A. **Generally safe extraction methods.** The Department permits the following generally safe extraction methods, so long as they are listed in the operating plan of record:
 - (1) Mechanical extraction using:
 - (a) Potable water and ice made from potable water;
 - (b) Dry screening or sieving;
 - (c) Cryogenic or subzero processing not involving a solvent; or
 - (d) Pressure and temperature.
 - (2) Infusion of marijuana in food grade fats or synthetic food additives:
 - (a) Propylene glycol;
 - (b) Glycerin;
 - (c) Butter;
 - (d) Olive Oil; or
 - (e) Other typical cooking fats.
- B. **Potentially hazardous extraction methods.** The Department will permit potentially hazardous solvent extraction using a 99 percent or greater purity of the following solvents, using storage, preparation, electrical, gas monitoring, fire suppression and exhaust systems methods approved in the operating plan of record, so long as the solvents are listed in the operating plan of record and the end result does not exceed allowable limits specified by the Department:
 - (a) CO₂;
 - (b) Ethanol, including solutions of ethanol and potable water;
 - (c) A liquid chemical, compressed gas or commercial product that has a flashpoint above 38 degrees Celsius or 100 degrees Fahrenheit
- C. **Inherently hazardous extraction methods.** Upon certification by a certified industrial hygienist or professional engineer licensed in Maine that the manufacturing facility's storage, preparation, electrical, gas monitoring, fire suppression and exhaust systems are adequate, the Department will permit inherently hazardous solvent extraction using a 99 percent or greater purity of the following solvents, so long as the solvents are listed in the operating plan of record and the end result does not exceed allowable limits specified by the Department:
 - (a) Butane;
 - (b) Propane;
 - (c) Acetone;
 - (d) Heptane;
 - (e) Pentane; or

- (f) Any other chemicals approved by the Department in writing.
- D. All flammable gas must be odorized in compliance with state and federal regulations.
- E. Pressurized canned flammable fuel, including without limitation butane or propane in containers intended for camp stoves, handheld torch devices, refillable cigarette lighters and similar consumer products are prohibited for use in extraction.
- F. As applicable, all licensees and employees must:
 - (1) Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present;
 - (2) Use proper eye protection, respiratory protection and gloves;
 - (3) Use only potable water and ice made from potable water in processing; and
 - (4) Undergo safety training on fire prevention and safe operation of equipment used for manufacturing.
- G. A marijuana products manufacturing facility performing extraction may be subject to inspection by the state fire marshal, local fire department, building inspector or code enforcement officer to confirm that no health or safety concerns are present, and that the facility is in compliance with all applicable standards contained in the NFPA model fire code.

3.8.5 Edible Marijuana Products Manufacturing. In addition to all other provisions of this Rule, 28-B MRS and all other applicable rules or laws, a marijuana products manufacturing facility that has declared edible marijuana products as part of their operating plan of record may manufacture edible marijuana products in accordance with the following:

- A. Must obtain a food establishment license from the State of Maine pursuant to 22 MRS§2167.
 - B. Must employ a Certified Food Protection Manager, pursuant to State of Maine Food Code Section 2-102.12, who has attained certification by a program that is evaluated and listed by a Conference for Food Protection-recognized accrediting agency as conforming to the Conference for Food Protection Standards for Accreditation of Food Protection Manager Certification Programs;
 - C. May not:
 - (1) Manufacture edible marijuana products intended for non-human consumption;
 - (2) Manufacture edible marijuana products within the same licensed food establishment that operates as a restaurant or that prepares non-cannabis food to be served to order;
 - (3) Share a food establishment with a person or entity not licensed as a marijuana products manufacturing establishment; or
 - (4) Process or prepare food intended for commercial sale that does not contain marijuana;
 - D. Shall be subject to inspection by state or local regulatory authorities including but not limited to the local fire department, building inspector or code enforcement officer to confirm that no health, safety or threats to the public welfare are present; and
 - E. Shall comply with all applicable standards of the relevant local jurisdiction and the Maine Food Code.
- In the event of a conflict between this Rule and the Maine Food Code, this Rule shall control.

3.8.6 Manufacturing of Medical Marijuana Products and Adult Use Marijuana Products on Same Premises.

- A. A products manufacturing facility may possess medical marijuana or medical marijuana concentrate only if it has received the Department's approval of an operating plan to extract from medical marijuana or produce medical marijuana products. The products manufacturing facility must:
 - (1) Track all medical marijuana, medical marijuana concentrate and medical marijuana products separately from adult use marijuana, adult use marijuana concentrate and adult use marijuana products in the tracking system.
 - (2) Store all medical marijuana, medical marijuana concentrate and medical marijuana products separately from adult use marijuana, medical marijuana concentrate and medical marijuana products.
 - (3) Ensure that medical marijuana or medical marijuana concentrate is never processed simultaneously or contemporaneously with adult use marijuana or marijuana concentrate on the same piece of equipment.

- (4) Keep a log of the following information for all equipment used to extract from both medical marijuana and adult use marijuana or to manufacture both medical marijuana products and adult use marijuana products:
 - (a) The name of the licensee or employee who operated the equipment;
 - (b) The tracking information for the marijuana or marijuana concentrate that was processed using the equipment;
 - (c) The exact date, time and duration the equipment was used; and
 - (d) The tracking information for the resulting marijuana concentrate or marijuana product.
- B. A log for any piece of equipment used to process or manufacture marijuana must be made available to the Department, the Maine Revenue Service or any law enforcement officer for inspection.

3.8.7 Reference Testing Requirements for Manufactured Marijuana.

Reserved for routine technical rulemaking as defined in 5 MRS, chapter 375, subchapter 2-A.

3.9 - Requirements Applicable to Marijuana Stores and Nursery Cultivation Facilities

3.9.1 Authorized Conduct. In accordance with the requirements and restrictions of 28-B MRS, this Rule and any other applicable laws or rules, a marijuana store licensee or nursery cultivation facility may:

- A. Between the hours of 7:00 AM and 10:00 PM local time or the hours approved in its operating plan:
 - (1) Sell or transfer permitted items on the licensed premises to consumers age 21 or older, within the limits described in this Section:
 - (a) Marijuana stores may sell marijuana seedlings, immature marijuana plants, marijuana or marijuana products, along with marijuana paraphernalia, non-marijuana food and non-alcoholic beverages, clothing and other generally permissible retail items.
 - (b) Nursery cultivation facilities may sell marijuana seeds, marijuana seedlings, immature marijuana plants, gardening or agriculture supplies and tools and safety-listed electrical equipment.
 - (2) Accept returns of products sold by the licensee at the same premises to the person making the return and offer a refund or exchange of equal or lesser value;
 - (3) Refuse to sell any item to any person; or
 - (4) Provide consultations between employees and adult consumers
- B. During the hours stated on the operating plan:
 - (1) Prepare and transport permitted items to another licensee;
 - (2) Accept deliveries of permitted items and manage its inventory;
 - (3) Enter transfers or deliveries into the tracking system;
 - (4) Dispose of marijuana waste;
 - (5) Conduct employee training; or
 - (6) Perform administrative work, cleaning or maintenance.

3.9.2 Sales Limits.

- A. A marijuana store may not knowingly sell more than the following amounts to an individual at any one time or within one day:
 - (1) Two and one-half ounces of marijuana; or
 - (2) Two and one-half ounces of marijuana and marijuana concentrate that includes no more than five grams of marijuana concentrate, whether sold alone, contained in an inhalant delivery system, or contained in edible marijuana products.
- B. A nursery cultivation facility may not sell more than a sum total of 12 seedlings or immature plants to an individual at any one time or within one day.
- C. A marijuana store or nursery cultivation facility is required to report to law enforcement the identity of any individual who explicitly communicates the intent to divert adult use marijuana to individuals under the age of 21, across state lines or to be engaging in the unlicensed sale of marijuana.
- D. A licensee shall report any criminal activity of which it is aware related to the unlicensed sale or diversion of marijuana, marijuana products or marijuana plants. Failure to report such activity to appropriate law enforcement entities may result in penalties up to and including license revocation and monetary fines.

- E. A licensee shall report all transactions into the tracking system.

3.9.3 Prohibited Conduct. In addition to any other prohibitions and restrictions of 28-B MRS, this Rule or any other applicable laws or rules, a marijuana store or nursery cultivation facility must not:

- A. Conduct any transaction without face-to-face verification of the purchaser's identity and age of 21 or older on an approved form of government-issued identification;
- B. Sell a marijuana item that has not passed quality testing;
- C. Sell a marijuana item that is not properly packaged or labeled in accordance with Section 11 of this Rule;
- D. Sell or give away pressurized containers of butane or other materials that could be used in the home production of marijuana concentrate, except that a marijuana store or nursery cultivation facility may sell or give away disposable butane lighters;
- E. Sell or give away any non-marijuana items that are attractive to minors as defined in Section 3.8.2 of this Rule;
- F. Sell an edible marijuana product that according to its label, exceeds 10 milligrams of THC per serving and 100 milligrams of THC in the total product;
- G. Discount a marijuana item if the retail sale of the marijuana item is made in conjunction with the retail sale of any other items, including other marijuana items;
- H. Sell a marijuana item at a nominal price for promotional purposes;
- I. Permit consumers to be present on the licensed premises or sell to a consumer between the hours of 10:00 p.m. and 7:00 a.m. local time the following day or any hours not permitted on the operating plan;
- J. Conduct any activities during hours or on days not authorized in the licensee's operating plan;
- K. Sell or transfer a returned marijuana item to another consumer;
- L. Permit a consumer to open or alter a package containing a marijuana item or otherwise remove a marijuana item from packaging required by this Rule within the premises or in an area that the licensee controls;
- M. Permit a consumer to bring marijuana items onto the premises except for marijuana items being returned for refund or exchange as allowed by this rule;
- N. Sell any item not allowed under this Rule or any of the following items:
 - (1) Pet or animal food, treats or other pet or animal products containing marijuana;
 - (2) Injectable marijuana; or
 - (3) Any other marijuana items not meant for human consumption or use;
- O. Sell mature marijuana plants or tissue cultures;
- P. Use any electrical equipment, including but not limited to display lighting, not listed as approved by a nationally recognized testing laboratory or not approved by the authority having jurisdiction; or
- Q. Engage in the sale of marijuana seeds, marijuana plants, marijuana or marijuana products if required testing is not verified/verifiable with certificate of analysis, or if testing reports unsafe levels of potentially harmful substances.

3.9.4 Monitoring of Public Access Areas. The marijuana store or nursery cultivation facility shall maintain control of public access areas.

- A. A marijuana store or nursery cultivation facility shall use one of the following means to monitor a public access area (Section 3.2) to ensure that no person under the age of 21 enters an age restricted retail area:
 - (1) **Stationing a licensee or employee during all hours of public operation in the public access area.** The licensee or employee shall check for valid identification and control entry to the age restricted retail area; or
 - (2) **Keeping entry doors locked.** The establishment shall use a door buzzer or other means to alert employees that a person wants to enter the public access area. A licensee or employee shall admit the person to the public access area and check for valid identification before allowing entry into the age restricted retail area.
 - (3) **Keeping entry doors open but keeping a door between the public access area and age restricted retail area locked.** The establishment shall use a door buzzer or other means to alert employees that a person wants to enter the age restricted retail area. A licensee or employee shall meet the person in the public access area and check for valid identification before allowing entry into the age restricted retail area.

- B. A marijuana store or nursery cultivation facility shall keep public access areas free of marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana and marijuana products except those exiting the premises in the possession of persons who have legally acquired them during that visit.

3.9.5 Display of Seeds, Seedlings, Immature Marijuana Plants, Marijuana and Marijuana Products.

Marijuana items may only be displayed in such a way that prevents access to persons who are not licensees or employees.

- A. As permitted under the class of license, marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana and marijuana products may be displayed in such ways that prevents access to persons who are not licensees or employees.
- B. As permitted under the class of license, displays accessible by persons other than licensees and employees may include packaging and marketing materials for marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana or marijuana products and mock examples, provided that no actual marijuana seedlings, immature marijuana plants, marijuana or marijuana products are present.

3.9.6 Point of Sale Areas. A marijuana store or nursery cultivation facility must keep all permitted marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana and marijuana products in limited access areas where access is restricted to licensees and employees.

- A. No person 21 years of age or older who is not a licensee or employee may handle marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana and marijuana products in the point of sale area unless a licensee or its employee supervises the person at all times.
- B. A person 21 years of age or older who is not a licensee or employee may only handle marijuana seeds, marijuana seedlings, immature marijuana plants, marijuana or marijuana products without the supervision of a licensee or employee only following the completion of a sale and once the purchased items are placed into exit packaging.

3.9.7 Exit Packaging. A marijuana store or nursery cultivation facility, after a retail sale, must place all items purchased fully within appropriate exit packaging prior to a customer leaving the premises.

- A. A licensee may charge a fee to consumers for exit packaging.
- B. A licensee may sell reusable exit packaging that meets all other requirements, except that the package need not be tamper-evident.
- C. A customer may supply reusable exit packaging, so long as:
 - (1) The reusable packaging is of a type sold by the licensee, and the licensee or employee verifies that it is legal exit packaging; and
 - (2) The licensee or employee verifies that the reusable exit packaging is in sound condition.
- D. The exit packaging must be free of any words, images, markings or design that in anyway indicate or suggest that its contents are of the exit package are marijuana, marijuana concentrate or marijuana products.
- E. For all items other than seedlings, immature plants, non-marijuana food, or non-marijuana drinks:
 - (1) The exit packaging must be enclosed, sealed, opaque, tamper-evident (unless approved reusable packing under this subsection), and child resistant.
 - (2) A licensee shall maintain a copy of the certificate showing that all types of exit packaging into which the licensee places marijuana or marijuana products is child-resistant and complies with the requirements of 16 C.F.R. 1700.15 (1995) and 16 C.F.R. 1700.20 (1995).

3.9.8 Sales Tax. A marijuana store or marijuana cultivation facility must track sales and remit sales taxes according to 36 MRS and the rules of the Maine Revenue Service.

Section 4 - Tracking

4.1 - General Tracking Requirements

In addition to any requirements specific to tracking within each license class, all licensees of marijuana establishments must meet minimum requirements.

- A. Marijuana establishment licensees must track, using the inventory tracking system specified by the Department, marijuana, marijuana concentrates and marijuana products from immature plant to point of sale.
- B. In addition to any license class specific tracking requirements, a licensee must record the following data in the tracking system:
 - (1) A complete inventory of all marijuana, marijuana concentrate and marijuana products in the possession, control or ownership of the licensee;
 - (2) Any changes to the marijuana establishment's inventory of any marijuana;
 - (3) When plants are partially or fully harvested or destroyed;
 - (4) When marijuana waste is destroyed;
 - (5) When an authorized transfer occurs;
 - (6) Any theft of marijuana;
 - (7) All sales records;
 - (8) Marijuana excise tax records;
 - (9) Marijuana sales tax records;
 - (10) All mandatory testing results;
 - (11) The municipality or municipalities where the product was harvested, processed (if applicable), sold to other licensees, and sold to consumers; and
 - (12) Other information required by the tracking system or specified by the Department.

4.1.1 Implementation and Administration of Tracking System.

- A. Unless excused by the Department, in writing, a marijuana establishment must have an inventory tracking system account activated and functional prior to operating or exercising any privileges of a license. The licensee shall keep and maintain comprehensive records to ensure adequate inventory tracking of any marijuana, marijuana concentrates and marijuana products during the period the licensee is not otherwise using the inventory tracking system.
- B. Each marijuana establishment must designate at least one licensee as an inventory tracking system administrator.
- C. In order to obtain an inventory tracking system administrator account, a licensee must attend and successfully complete all required inventory tracking system training. A licensee may apply for an account and training once they receive a conditional license from the Department.
- D. The Department may also require additional ongoing, continuing education for an individual to retain his or her inventory tracking system administrator account.
- E. Each licensee is responsible for all costs associated with its use of the tracking system and any associated vendor fees.
- F. A marijuana establishment may designate additional licensees as inventory tracking system users. The establishment shall ensure that all licensees who are granted inventory tracking system user account access for the purposes of conducting inventory tracking functions in the system are trained by inventory tracking system administrators in the proper and lawful use of the inventory tracking system.

4.1.2 General Inventory Tracking System Use.

- A. All inventory tracking activities at a marijuana establishment licensee must be tracked through use of the inventory tracking system. A licensee must reconcile all on-premises and in-transit marijuana, marijuana concentrates and marijuana product inventories each day in the inventory tracking system by 11:59 p.m. that same day.
- B. A marijuana store establishment must utilize a standard of weights and measures that is supported by the inventory tracking system to track all marijuana, concentrate and marijuana product. A scale used to weigh

product prior to entry into the inventory tracking system shall be tested and approved in accordance with 10 MRS, chapter 501.

- C. A licensee shall maintain the security of the inventory tracking system, as follows:
 - (1) A marijuana establishment licensee shall maintain and provide to the Department an accurate and complete list of all inventory tracking system administrators and inventory tracking system users for each licensed premises.
 - (2) A marijuana establishment licensee shall update this list and provide the updated list to the Department when a new inventory tracking system user is trained or when an existing user is removed.
 - (3) A marijuana establishment licensee must train and authorize any new inventory tracking system users before they may access inventory tracking system or input, modify or delete any information in the inventory tracking system.
 - (4) A marijuana establishment licensee must cancel any inventory tracking system administrators and inventory tracking system users from their associated inventory tracking system accounts once any such individuals are no longer employed by the licensee or at the licensed premises.
 - (5) A marijuana establishment licensee is accountable for all actions employees take while logged into the inventory tracking system or otherwise conducting marijuana, marijuana concentrates and marijuana product inventory tracking activities.
 - (6) Each individual user is also accountable for all of his or her actions while logged into the inventory tracking system or otherwise conducting marijuana, marijuana concentrates or marijuana product inventory tracking activities, and shall maintain compliance with all relevant laws.
 - (7) Each individual user shall only log activities in the inventory tracking system under the user's own unique inventory tracking system user account.
- D. A marijuana establishment may use separate software applications to collect information to be used by the business, including secondary inventory tracking or point of sale systems.
 - (1) A licensee must ensure that all relevant inventory tracking system data is accurately transferred to and from the inventory tracking system for the purposes of reconciliations with any secondary systems.
 - (2) A marijuana establishment must preserve original inventory tracking system data when transferred to and from a secondary application(s). Secondary software applications must use the inventory tracking system data as the primary source of data and must be compatible with updating to the inventory tracking system.

4.1.3 Conduct While Using Inventory Tracking System.

- A. A marijuana establishment and its designated inventory tracking system administrator(s) and inventory tracking system user(s) shall enter data into the inventory tracking system that fully and transparently accounts for all inventory tracking activities and authorized transfers. Both the marijuana establishment and the individuals using the inventory tracking system are responsible for the accuracy of all information entered into the inventory tracking system. Any misstatements or omissions may be considered a license violation affecting public safety.
- B. Individuals entering data into the inventory tracking system shall only use that individual's inventory tracking system account.
- C. If at any point a marijuana establishment loses access to the inventory tracking system for any reason:
 - (1) The marijuana establishment shall immediately notify the Department and shall keep and maintain comprehensive records detailing all marijuana, marijuana concentrates and marijuana product tracking inventory activities that were conducted during the loss of access;
 - (2) Once access is restored, all marijuana, marijuana concentrates and marijuana product inventory tracking activities that occurred during the loss of access must be entered into the inventory tracking system and the Department shall be notified that access has been restored;
 - (3) A marijuana establishment must document when access to the system was lost, the cause of system loss and when it was restored; and
 - (4) A marijuana establishment shall not transport or receive any marijuana, or marijuana product to or from another marijuana establishment until such time as access is restored and all information is recorded into the inventory tracking system.

4.1.4 System Notifications.

- A. A marijuana establishment must monitor all compliance notifications from the inventory tracking system. The licensee must resolve the issues detailed in the compliance notification in a timely fashion. Compliance notifications shall not be dismissed in the inventory tracking system until the marijuana establishment resolves the compliance issues detailed in the notification.
- B. A marijuana establishment must take appropriate action in response to informational notifications received through the inventory tracking system including but not limited to notifications related to enforcement alerts and other pertinent information.

4.1.5 Lawful Activity Required. Proper use of the inventory tracking system does not relieve a licensee of its responsibility to maintain compliance with all laws, rules and other requirements at all times.

4.1.6 Inventory Tracking System Procedures Must Be Followed. A marijuana establishment must utilize the inventory tracking system in conformance with these rules and inventory tracking system procedures, including but not limited to:

- A. Properly indicating the creation of a harvest batch or production batch including the assigned harvest batch or production batch number;
- B. Accurately identifying the cultivation rooms where each plant is located on the licensed premises;
- C. Accurately identifying when inventory is no longer on the licensed premises or is part of an authorized transfer;
- D. Properly indicating that a test batch is being used as part of achieving process validation;
- E. Properly indicate test results from a marijuana testing facility;
- F. Accurately indicating the inventory tracking system category for all marijuana and marijuana products; and
- G. Accurately including a note explaining the reason for any destruction of marijuana and/or marijuana products, and reason for any adjustment of weights to inventory tracking system packages.

4.2 - Transportation

4.2.1 Transport Manifest. A transport manifest, generated by the tracking system, is required for all authorized transfer of marijuana or marijuana products. The transport manifest does not take the place of a chain-of-custody form that may be required of the licensee. Transport authorized by these rules shall be by motor vehicle only.

- A. The licensee transporting marijuana or marijuana products is responsible for entering all required information in the tracking system for the generation of a transport manifest, including without limitation, the following information:
 - (1) The name, contact information, licensed premises address and license number of the licensee transporting the marijuana or marijuana products;
 - (2) The name, contact information, licensed premises address and license number of the licensee receiving the transported marijuana;
 - (3) Product name and quantities (by weight or unit) of each marijuana or marijuana product contained in each transport;
 - (4) The date of transport and approximate time of departure;
 - (5) Arrival date and estimated time of arrival;
 - (6) Delivery vehicle make and model and license plate number;
 - (7) Name and signature of the licensee or individual identification card holder and their identification card number accompanying the transport;
 - (8) Name and signature of the licensee or individual identification card holder and their identification card number receiving the authorized transfer;
 - (9) The correct Sales Tax Identification Number or Excise Tax Identification Number for the transferor and the transferee; and
 - (10) Damaged or refused marijuana or marijuana products being returned to the original seller.
- B. A transport manifest must be prepared for each marijuana establishment that will receive marijuana or marijuana products.

- C. A licensee may not void or change a transportation manifest after departing from the originating premises.

4.2.2 Transport Manifest Exception. When marijuana items are transferred by way of authorized transfer between two licenses controlled by the same licensee, and which do not require the transport of the marijuana or marijuana products outside the boundaries of the premises, then a transport manifest is not required. In these cases, the licensee must still follow all requirements of the tracking system.

4.2.3 Transportation of Marijuana and Marijuana Products. Marijuana and marijuana products may be transported subject to the following requirements:

- A. Marijuana or marijuana products may be transported only from one licensed marijuana establishment to another licensed marijuana establishment;
- B. All marijuana or marijuana products being transported must be included in and accompanied by a transport manifest generated by the tracking system;
- C. All marijuana or marijuana products being transported must be contained within an enclosed, locked area in the transport vehicle;
- D. A marijuana products manufacturing facility must provide adequate refrigeration for perishable marijuana product that will be consumed and shall utilize adequate storage facilities and transport methods. This shall include, but not be limited to, potentially hazardous food as defined under the State of Maine Food Code.
- E. The licensee transporting the marijuana or marijuana products must:
 - (1) Keep marijuana or marijuana products in transit shielded from public view;
 - (2) Use a vehicle for transport that is:
 - (a) Insured at or above the legal requirements in Maine; and
 - (b) Equipped with, at a minimum, a functional, manufacturer-installed alarm system; and
- F. All marijuana or marijuana products must be contained within wholesale containers in the transport vehicle
- G. A licensee or individual identification card holder transporting marijuana or marijuana products must carry three copies of each transport manifest during the transportation of marijuana or marijuana products and must:
 - (1) Give one copy to the receiving licensee following the verification of the transport manifest and transfer of the marijuana or marijuana products;
 - (2) Possess one copy that is to be provided to a law enforcement officer or government agent upon request, as follows:
 - (a) A licensee or individual identification card holder who has given a transport manifest to a law enforcement officer or government agent shall obtain the name, rank and agency of the law enforcement officer;
 - (b) The licensee or individual identification card holder who has given a transport manifest to a law enforcement officer or government agent must retain the name and identification number of the law enforcement officer or government agent for the duration of the transport; and
 - (3) Maintain a copy of the transport manifest that must be returned to the marijuana establishment for record-keeping purposes;
- H. A licensee must notify law enforcement and the Department immediately, or as soon as possible given the circumstances, if a vehicle transporting marijuana or marijuana products is involved in a vehicular accident or theft resulting in the loss of marijuana or marijuana products;
- I. Any vehicle transporting marijuana or marijuana products must travel directly from the shipping licensee to the receiving licensee and the licensee or individual identification card holder transporting marijuana or marijuana products must not:
 - (1) Make any stops in between except:
 - (a) to other licensed premises listed on a transport manifest,
 - (b) to accommodate meal and rest periods required by law; or
 - (c) in the case of an emergency, in which case the shipping licensee shall promptly report, or cause to be reported, the stop and the reasons for the stop to the Department and note the same on the transport manifest;
 - (2) Remove the marijuana or marijuana products from the vehicle until arrival at the destination;
 - (3) Transfer marijuana or marijuana products to, nor store marijuana or marijuana products in any unlicensed premises; or

- (4) Travel with any persons not listed on the transport manifest.
- J. A licensee must notify the Department in advance of the location of every stop at an unlicensed location that exceeds two hours in duration.
- K. A licensee or individual identification card holder must make a vehicle used for the transport of marijuana or marijuana products immediately available for inspection upon request of the Department.
- L. Upon law enforcement stop or other contact the marijuana licensee or its agent shall identify themselves with their Department-issued individual identification card and all transportation manifests.

4.2.4 Receiving Party. The marijuana establishment receiving marijuana or marijuana products pursuant to an authorized transfer must:

- A. Verify the condition and quantity of marijuana or marijuana products included in the transport manifest;
- B. Record in the tracking system and any other relevant business records any damaged or refused marijuana or marijuana products, or other discrepancies found between the marijuana or marijuana products delivered and the marijuana items stated on the transport manifest;
- C. Enter the received marijuana or marijuana products in the tracking system of the receiving party prior to end of business on the day that they are received; and
- D. Provide an authorized signature and individual identification card number of the person receiving the authorized transport on the transport manifest belonging to the party transporting the marijuana or marijuana products, which must be kept by the transporting party for their records.

Section 5 - Advertising

5.1 - Definitions

For the purposes of this subsection, the following terms are defined as:

- A. "Advertising" means publicizing the trade name of a licensee together with words or symbols referring to marijuana or publicizing the brand name of marijuana items.
- B. "Handbill" is a flyer, leaflet or sheet that advertises marijuana.
- C. "Radio" means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite or internet programming. Radio includes any audio programming downloaded or streamed via the internet.
- D. "Television" means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or internet programming. Television includes any video programming downloaded or streamed via the internet.

5.2 - Prohibitions

- A. In the course of promoting their brand or marijuana items, a marijuana establishment or licensee may not advertise in a manner:
 - (1) That is attractive to minors;
 - (2) That promotes irresponsible use;
 - (3) That promotes activity that is illegal under Maine law;
 - (4) That is contrary to or in direct violation of state or federal consumer protections; or
 - (5) That otherwise presents a significant risk to public health and safety.
- B. Advertising for a marijuana establishment may not:
 - (1) Contain statements that are deceptive, false or misleading;
 - (2) Display consumption of marijuana or marijuana products;
 - (3) Include claims related to potency (beyond listing of cannabinoid content);
 - (4) Depict activities or conditions considered risky when under the influence of marijuana, such as operating a motorized vehicle, boat or machinery, being pregnant or breastfeeding;
 - (5) Contain any content that can reasonably be considered to target individuals under the age of 21, including but not limited to images of minors, cartoons, toys or similar images and items typically marketed towards minors or references to products that are commonly associated with minors or marketed by minors;
 - (6) Contain any imitation of candy advertising;
 - (7) Include the term "candy" or "candies";
 - (8) Encourage the transportation of marijuana items across state lines or otherwise encourage illegal activity;
 - (9) Assert that marijuana items are safe because they are regulated by the Department or have been tested by a certified laboratory or otherwise make claims that any government agency endorses or supports marijuana;
 - (10) Make claims that marijuana has curative or therapeutic effects;
 - (11) Contain any health or physical benefit claims, including but not limited to health or physical benefit claims on labels or packaging; or
 - (12) Contain material that encourages excessive or rapid consumption.
- C. No licensee or agent of a licensee may:
 - (1) Make any deceptive, false or misleading assertions or statements on any informational material, any sign or any document provided to a consumer;
 - (2) Distribute handbills in public areas or on publicly owned property;
 - (3) Utilize television, radio, print media or internet advertising in cases where there is a reasonable expectation that more than 30 percent of the audience for the program, publication or internet web

- site in or on which the advertising is to air or appear is reasonably expected to be under the age of 21;
- (4) A licensee may not engage in advertising via marketing directed towards location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is 21 years of age or older and includes a permanent and easy opt-out feature; or
 - (5) Permit use of the licensee's trademarks, brands, names, locations or other distinguishing characteristics for third-party use on advertising in a manner that does not comply with this Section or any other statute, rule or regulation.
- D. In the event a third-party has used licensee brand, trademarks, brands, names, locations or other distinguishing characteristics in an advertisement that does not comply with this Section or any other statute, rule or regulation, the licensee must immediately notify the Department, issue a cease-and-desist order to the third-party and pursue appropriate legal action.

5.3 - Websites

In addition to complying with the advertisement criteria and prohibitions outlined in Section 5.2, a marijuana establishment advertising on a website must:

- A. Utilize appropriate measures to ensure that individuals visiting the web page are over 21 years of age;
- B. Not utilize unsolicited pop-up or banner advertising on the internet other than on age-restricted websites for people 21 and over who consent to view marijuana-related material.

5.4 - Required Statements

A licensee must include the following statements, either in print or audio, on all print, television, radio and internet advertising in font size legible to the viewer or at a volume and speed that is readily understandable by the average listener:

- A. "For use only by adults twenty-one years of age and older."
- B. The license number of the marijuana establishment.

5.5 - Objectionable and Non-Conforming Advertising

The Department reserves the right to take action, including the use of punitive measures, against any licensee who fails to comply with the advertising provisions of this Rule, including, without limitation, specifying a period of time by which the licensee shall cease the non-compliant advertising and remove any advertising still being published or displayed.

Section 6 - Licensee Samples

6.1 - Trade Samples

6.1.1 Regulation of Trade Samples. Licensees may not provide samples of seeds, seedlings, immature marijuana plants or mature marijuana plants to other licensees. As authorized in this section, trade samples may be provided only by cultivation facilities and product manufacturing facilities and:

- A. Must be provided solely for the purposes of business to business marketing;
- B. Must be conveyed by way of authorized transfer in accordance with all tracking requirements;
- C. Must be packaged and labeled in accordance with Section 11 of this Rule;
- D. Must be placed in exit packaging in accordance with Section 11 of this Rule;
- E. May not be consumed on the premises of the licensee providing or receiving the sample;
- F. May not be sold or conveyed to another licensee or consumer; and
- G. May not be provided for any payment or consideration in contravention of sales and excise tax requirements.

6.1.2 Cultivation Facilities. Cultivation facilities, with the exception of nursery cultivation facilities, may provide trade samples of marijuana grown at the facility to licensed products manufacturing facilities or marijuana stores.

6.1.3 Products Manufacturing Facilities. Products manufacturing facilities may provide trade samples of marijuana products to licensed marijuana stores in accordance with this subsection.

6.1.4 Trade Sample Limits. No samples of marijuana or marijuana products shall be permitted to consumers or to other licensees, except as outlined in Section 6.1. A licensee is limited to providing the following aggregate amounts of trade samples to an authorized individual recipient licensee in a calendar month period:

- A. Edible containing products containing less than five grams of THC, which is easily divisible into servings of 10 mg of THC per serving;
- B. Marijuana concentrate containing five grams of THC;
- C. Two- and one-half ounces of marijuana.

6.2 - Samples for Testing and Research

Reserved for routine technical rulemaking as defined in Title 5 Chapter 375 Subchapter 2-A.

Section 7 - Authorized Transfers

A marijuana establishment licensee may transfer, within its licensed authority, marijuana seeds, seedlings, immature plants; marijuana; marijuana concentrate; other marijuana products; marijuana trade samples or marijuana samples for testing to other marijuana establishment licensees pursuant to the tracking system requirements described in 28-B MRS, this Rule and all other applicable laws and rules.

7.1.1 Compliance with Tracking System Requirements. A marijuana establishment must enter any marijuana seeds, seedlings or immature plants; marijuana; marijuana concentrate; other marijuana products; marijuana trade samples or marijuana samples for testing into the tracking system.

- A. The correct Excise Tax Identification Number or Sales Tax Identification Number for the transferor and the transferee must be entered into the tracking system.
- B. Tracking requirements apply to any transfer between two licensees, regardless of common ownership or co-location.
- C. Tracking requirements apply to any transfer between the designated cultivation area of a nursery cultivation facility to the area of a nursery cultivation facility designated for consumer sales.

7.1.2 Compliance with Transportation Requirements. All authorized transfers shall be by motor vehicle only and comply with the transportation requirements of Section 4.2 and 29-A MRS.

Section 8 - Product Safety

In an effort to assure the safety of all marijuana, marijuana concentrate and marijuana products, marijuana establishment licensees must follow, and the Department may act in accordance with, in addition to all other applicable laws and rules, the following provisions in this Section.

8.1 - General Sanitary Requirements

In addition to the requirements found in Maine Food Code Chapter 33, this Rule and all other applicable rules and laws, a marijuana establishment licensee must:

- A. Prohibit an individual from working on a licensed premises, until the condition is corrected, who has or appears to have:
 - (1) An open or draining skin lesion unless the individual wears an absorbent dressing and protective gloves; or
 - (2) Any illness accompanied by diarrhea or vomiting if the individual has a reasonable possibility of contact with marijuana items on the licensed premises;
- B. Require all persons who work in direct contact with marijuana items conform to hygienic practices while on duty, including but not limited to:
 - (1) Maintaining adequate personal cleanliness; and
 - (2) Washing hands thoroughly in an adequate hand-washing area before starting work, prior to having contact with a marijuana item and at any other time when the hands may have become soiled or contaminated;
- C. Provide adequate and convenient hand-washing facilities, furnished with potable running water at a suitable temperature, effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying device;
- D. Properly remove all litter and waste from the licensed premises and maintain the operating systems for waste disposal in an adequate manner so that they do not constitute a source of contamination in areas where marijuana items are exposed;
- E. Provide employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and
- F. Hold marijuana items in a manner that prevents pathogenic microorganism growth or toxin formation.

8.2 - Marijuana Products Manufacturing Facility Product Safety

- A. A marijuana products manufacturing facility that manufactures edible marijuana products must create and maintain standard production procedures and detailed manufacturing processes for each edible marijuana product it manufactures. These procedures and processes must be documented and made available on the licensed premises for inspection by the Department and local authorities.
- B. The following information must be documented in the standard production procedures for each edible Marijuana product:
 - (1) The amount in milligrams of standardized serving of marijuana;
 - (2) The total number of standardized serving of marijuana; and
 - (3) The total amount of active THC contained within the product.
- C. Marijuana and cannabinoid content must be homogeneous throughout:
 - (1) The product, or that portion of the product that contains THC; and
 - (2) Each serving.
- D. Serving sizes must be standardized.
 - (1) The size of a standardized serving of marijuana shall be no more than 10mg of active THC.
 - (2) A marijuana products manufacturing facility that manufactures edible marijuana product shall determine the total number of standardized serving of marijuana for each product that it manufactures.

- (3) No individual edible marijuana product unit for sale shall contain more than 100 milligrams of active THC, which must be readily divisible into individual servings containing no more than 10 milligrams of THC per serving.
 - (4) Determinations of cannabinoid content must comply with the testing requirements of this Rule.
- E. Unless impracticable, each single standardized serving of marijuana shall be marked, stamped or otherwise imprinted with the Department-approved universal symbol directly on at least one side of the edible marijuana product in a manner to cause the universal symbol to be distinguishable and easily recognizable. The universal symbol marking shall:
 - (1) Be centered either horizontally or vertically on each standardized serving of marijuana; and
 - (2) If centered horizontally on a serving, the height and width of the universal symbol shall be of a size that is at least 25% of the serving's width, but not less than ¼ inch by ¼ inch; or
 - (3) If centered vertically on a serving, the height and width of the universal symbol shall be of a size that is at least 25% of the serving's height, but not less than ¼ inch by ¼ inch.
- F. The following categories of edible marijuana product are considered to be per se practicable to mark with the universal symbol:
 - (1) Chocolate
 - (2) Soft confections
 - (3) Hard confections or lozenges
 - (4) Consolidated baked goods (e.g. cookie, brownie, cupcake, granola bar)
 - (5) Pressed pills and capsules

Section 9 - Waste Management

All wastes must be managed in accordance with federal, state and local requirements. The Department of Environmental Protection regulates the management and discharge of wastes pursuant to 38 MRS, chapter 13. Applicants should contact the Department of Environmental Protection for guidance on applicable regulations.

9.1 - Hazardous Waste

Discharges of hazardous waste or other matter in any quantity and under any circumstances must be reported in accordance with this Section.

- A. Licensees must immediately report discharges to the Department of Public Safety (State Police) unless exempted pursuant to Chapters 800 and 850 of the Department of Environmental Protection's regulations:
 - (1) Licensees must call 1-800-452-4664 or 207-624-7000 to notify the Department of Public Safety of a discharge.
 - (2) Public Safety officials will notify the Department of Environmental Protection; the responsible party is not required to do so.
- B. Licensees must also report any discharges of hazardous matter exceeding the federal reportable quantities in Appendix A to Chapters 800 and 850 of the Department of Environmental Protection's regulations as follows:
 - (1) The licensee must call the National Response Center at 1-800-424-8802; and
 - (2) If the spill goes beyond the boundary of the facility, the licensee must call the local fire department and the local community emergency coordinator.

9.2 - Marijuana Waste

In addition to any other provisions of 28-B MRS, this Rule or other applicable laws or rules, non-hazardous marijuana wastes shall be managed in accordance with the following:

- A. A marijuana plant, useable marijuana, trim and other plant material in itself is not considered hazardous waste unless it has been treated or contaminated with a solvent (other than water).
- B. Non-hazardous marijuana waste that is to be disposed of must be rendered unusable prior to leaving a marijuana establishment by one of the following methods:
 - (1) Grinding and incorporating the marijuana waste with other ground materials so the resulting mixture is at least fifty percent non-marijuana waste by volume, including:
 - (a) Food waste;
 - (b) Yard waste; or
 - (c) Other wastes approved by the Department; or
 - (2) Using another method approved by the Department and recorded in the licensee's operating plan of record before implementation.
- C. Composting of marijuana wastes may be subject to the Department of Environmental Protection's Solid Waste Management Rules: Composting Facilities rule, 06-096 C.M.R., chapter 410.

9.2.1 Marijuana Waste Exceptions. The following materials shall not be considered to be marijuana waste requiring treatment to be rendered unusable, provided that they are completely free of all marijuana flowers and leaves with any visible trichomes, and may be disposed of, provided that they are non-hazardous, in accordance with standard waste disposal regulations:

- A. Root balls, soil or growing media;
- B. Stalks of marijuana plants; and
- C. Leaves and branches removed from marijuana clones, seedlings and marijuana plants.

Section 10 - Wastewater

Wastewater generated during the cultivation, processing or manufacturing of marijuana must be disposed of in compliance with all applicable state and local laws and regulations.

Section 11 - Package and Labeling

All marijuana, marijuana concentrate and marijuana products received by a marijuana store from an authorized transfer, and offered for retail sale at a marijuana store must be packaged and labeled, including all required health and safety warnings, in accordance with the following section, in addition to any other provisions of this Rule, 28-B MRS and any other applicable laws and rules.

A licensee may not label or package for sale adult use marijuana or an adult use marijuana product under this chapter unless the marijuana or marijuana product has been analyzed by a certified testing laboratory, if such facility is in operation, for minimally the following test matrices:

- A. Residual solvents, poisons and toxins;
- B. Harmful chemicals;
- C. Dangerous molds and mildew;
- D. Harmful microbes, including, but not limited to, *Escherichia coli* and salmonella;
- E. Pesticides, fungicides and insecticides; and
- F. THC potency, homogeneity and cannabinoid profiles to ensure correct labeling.

The Department may waive testing requirements specified above, for any contaminant or factor for which the Department has determined that there exists no licensed testing facility in Maine certified to perform such testing, except that, in the interest of assuring public health and safety, the anticipated or reported timeliness of return of Certificate of Analysis for product testing conducted by a certified, licensed testing facility or the urgency expressed by a licensee may not be a basis for waiving required testing.

11.1 - General Packaging and Labeling Requirements for Retail Sale

11.1.1 General Packaging for Retail Sale Requirements. All marijuana items must be packaged in containers that:

- A. Are fully enclosable;
- B. Are resealable;
- C. Protect the packaged item from contamination; and
- D. Do not impart any toxic or deleterious substance to the packaged item.

11.1.2 General Labeling for Retail Sale Requirements. In addition to any other requirements pursuant to this Rule and 28-B MRS, all marijuana item labels must comply with the following:

- A. All required information must be printed directly on, or on a label or sticker affixed directly to, the marketing layer.
- B. Labeling text on any marketing layer must be no smaller than size 6 font or 1/12 inch.
- C. All information included in the labeling requirements, or any other provision of this Rule, must be clearly written or printed and in the English language. In addition to the required English label, licensees may include an additional, accurate foreign language translation on the label that otherwise complies with these rules.
- D. All information included in the labeling requirements, or any other provision of this Rule, must be displayed on the marketing layer and must be unobstructed and conspicuous. A marijuana establishment licensee may affix multiple labels to the marketing layer, provided that none of the information required by this Rule is obstructed.
- E. The marijuana store that conducted the retail sale of the marijuana, marijuana concentrate or marijuana product must affix its license number to the marketing layer of the marijuana, marijuana concentrate or marijuana product on a separate label or sticker that may be applied following the retail sale but before placing the marijuana, marijuana concentrate or marijuana product in an exit package.

- F. The label must include:
 - (1) The unique identification number of the final batch from which the testing sample for the mandatory testing of the contents of the marijuana item was taken.
 - (2) Mandatory testing results from the licensed testing facility that tested the sample of the batch from which the marijuana item was taken.
- G. The label's statement of net contents must identify the net weight of the marijuana, marijuana concentrate or marijuana product prior to its placement in the container, using a standard of measure compatible with the tracking system.
- H. The Department-approved universal symbol, as made available by the department, must appear on the front or most predominantly displayed area of the marketing layer, no smaller than $\frac{1}{2}$ of an inch by $\frac{1}{2}$ of an inch.
- I. The label must include, as a production date:
 - (1) For marijuana and marijuana products consisting in whole or in part of marijuana flower or marijuana trim, the date of the harvest batch; or
 - (2) For marijuana concentrate or marijuana products that were manufactured, the date on which the manufacturing batch was created.
- J. Required information may be stated in a peel-back accordion style, expandable, extendable or layered label, so long as the label can be easily identified by a consumer as containing important information.
- K. Cannabinoid content and statements regarding contaminants and use of solvents or absence thereof may not conflict results reported in an approved marijuana testing facility's Certificate of Analysis.

11.1.3 General Labeling Prohibitions. The label for retail sale of marijuana, marijuana concentrate or marijuana products may not:

- A. Use the word(s) "candy" and/or "candies" on the label of any marketing layer, container holding marijuana, marijuana concentrate or marijuana product or intermediate packaging;
- B. Display any content on a container, marketing layer or intermediate packaging making any claims regarding health or physical benefits to the consumer;
- C. Cause a reasonable consumer confusion as to whether the marijuana, marijuana concentrate or marijuana product is a trademarked product;
- D. Violate any state or federal trademark law or regulation;
- E. Include any false or misleading statements;
- F. Reasonably appear to target individuals under the age of 21, including but not limited to, cartoon characters or similar images; or
- G. Report information regarding the quality or potency of the enclosed product, except as reported by a certified third-party laboratory, unless the label clearly indicates that testing regarding the claim is not required or conducted by a certified third-party laboratory.

11.2 - Packaging and Labeling of Trade Samples

Along with all requirements pursuant to this Rule and 28-B MRS, marijuana cultivation and marijuana products manufacturing establishments shall comply with the following minimum packaging and labeling requirements prior to authorized transfer of any trade sample to a licensed marijuana establishment.

- A. Prior to authorized transfer, a trade sample must be placed in a container that is compliant with the packaging for retail sale requirements of this Rule.
- B. Prior to authorized transfer to a licensed marijuana establishment, every container containing a trade sample shall be affixed with a label that includes at least the following information:
 - (1) The license number for the marijuana cultivation or marijuana products manufacturing establishment transferring the trade sample;
 - (2) The relevant batch from which the trade sample was selected;
 - (3) The universal symbol on the front of the marketing layer, no smaller than $\frac{1}{2}$ of an inch by $\frac{1}{2}$ of an inch;
 - (4) A potency statement, either in a font that is bold and enclosed within an outlined shape such as a circle or square or highlighted with a bright color such as yellow:
 - (a) For a sampling unit composed of marijuana or marijuana concentrate, the potency of the sampling unit's active THC and CBD expressed as a percentage;

- (b) For a sampling unit composed of marijuana product, the potency of the sampling unit's active THC and CBD expressed in milligrams; and
- (5) The date and identification number of the transport manifest pursuant to which the trade sample was transferred.
- C. Any statement as to cannabinoid profile or presence/absence of contaminants may require testing and label verification by a certified third-party testing facility
- D. Either the label affixed to the container or the marketing layer shall include the statement: "Trade Sample. Not for Sale."

11.3 - Packaging and Labeling for Retail Sale of Inhaled Marijuana Products

11.3.1 Retail Sale Packaging for Inhaled Marijuana Products. Prior to authorized transfer to a marijuana store, all inhaled marijuana products shall be packaged in accordance with the following:

- A. The container must be fully enclosed on all sides, as follows:
 - (1) If container is soft sided, it must be four mil or greater in thickness; or
 - (2) If container has rigid sides, it must have a lid or enclosure that can be placed tightly and securely on the container.
- B. The container must be tamper evident:
 - (1) If the container is soft sided, the opening must be sealed by some means in a manner which would indicate if the container had been opened or tampered with. The tamper evident indicating feature of the opening must not be resealable, and once opened must remain clearly evident that the package has previously been opened; or
 - (2) If the container is rigid, the opening must contain a tamper evident seal, or the lid or enclosure must have an adhesive band or seal that once opened must remain clearly evident that the package has previously been opened.

The packaging must contain a marketing layer, on which required labeling information can be printed.

11.3.2 Labeling for Retail Sale Requirements for Inhaled Marijuana Products. In addition to Section 11.1.2 any other provisions of this Rule and 28-B MRS, all inhaled marijuana products must clearly display the following information on the marketing layer of the package for retail sale:

- A. The applicable license number as follows:
 - (1) For inhaled marijuana products consisting in whole or in part of marijuana flower or trim, the license number of marijuana cultivation establishment that most recently cultivated or processed the inhaled marijuana product; or
 - (2) For inhaled marijuana products consisting in whole or in part of marijuana concentrate, or products manufactured by a marijuana products manufacturing establishment, the license number of the marijuana products manufacturing establishment which manufactured the inhaled marijuana products;
- B. The potency of inhaled marijuana products, expressed as the percentage total of THC and CBD and based on the results of analysis reported by a certified testing laboratory and as:
 - (1) A range of percentages of total THC and CBD that extends from the lowest percentage to the highest percentage for each cannabinoid listed that may be found in the inhaled marijuana product, so long as the lowest percentage and the highest percentage of total THC and CBD do not differ by more than 20% of the lowest percentage stated; or
 - (2) The average percentage total of THC and CBD found in the inhaled marijuana product, so long as the actual percentage totals of the inhaled marijuana product does not vary by more than 15% higher or 15% lower than the potency statement stated on the label;
- C. If applicable, a list of any solvent(s) used to produce any marijuana concentrate that was used in the manufacturing of the inhaled marijuana product;
- D. If applicable, a list of all ingredients used to manufacture the inhaled marijuana products, including identification of any major allergens contained in the marijuana concentrate in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010), specifically milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybeans; and
- E. Net content, according to the following:

- (1) For inhaled marijuana products, net contents shall be stated in grams, except that inhaled marijuana products containing less than one gram of net content may state the net contents in milligrams.
- (2) Variance is allowed as follows:
 - (a) For inhaled marijuana products composed primarily of marijuana flower or trim, the actual net contents by weight may be as much as 0.1 grams less or 0.5 grams greater than the statement of net content on the label;
 - (b) For inhaled marijuana products that are pre-rolled marijuana cigarettes, the actual net contents by weight may be as much as 5% less than or 15% greater than the statement of net content;
 - (c) For inhaled marijuana products composed primarily of marijuana extract, the actual net contents by weight may be as much as 5% less or 10% more than the statement of net content.
- (3) Inhaled marijuana product labels may state the net contents in ounces in addition to stating the net contents in grams.
- (4) In determining the weight of marijuana concentrate in a marijuana product, the weight of any other ingredients combined with marijuana or marijuana concentrate to prepare the marijuana products may not be included.

11.4 - Packaging and Labeling for Retail Sale of Edible Marijuana Products

11.4.1 Retail Sale Packaging Requirements for Edible Marijuana Products. Prior to authorized transfer to a marijuana store, all edible marijuana products shall, unless otherwise specified, be packaged in child-resistant containers in accordance with 16 C.F.R. Part 1700 (2018) as follows:

- A. For single-serving edible marijuana products:
 - (1) Single-serving edible marijuana products must be placed into a child-resistant container that may or may not be resealable.
 - (2) Single-serving edible marijuana products that are placed into a child-resistant container may be bundled into a larger marketing layer so long as the total amount of active THC per marketing layer does not exceed 100 milligrams.
- B. For multiple-serving edible marijuana products:
 - (1) Every multiple-serving edible marijuana product must be placed into a child-resistant container that is resealable or made of plastic four mil or greater in thickness and heat sealed with no easy-open tab, dimple, corner or flap, as to make it difficult for a child to open.
 - (2) A multiple-serving edible marijuana product must not exceed 100 milligrams of total THC per multiple-serving container.
 - (3) The packaging shall clearly indicate the size of a serving if the edible product is not in a form that indicates a serving.
- C. A single-serving tincture may contain no more than 10 milligrams of THC and must be placed into a child-resistant container that may or may not be resealable.
- D. Single-serving marijuana drinks that do not contain more than 10 milligrams of THC may be packaged in:
 - (1) A child-resistant container; or
 - (2) An aluminum or metal can with a stay tab mechanism opening; or
 - (3) A bottle with a metal crown cork style bottle cap.
- E. Multiple-serving marijuana drinks that contain more than 10 milligrams of THC but no more than 100 milligrams of THC must:
 - (1) Be packaged in a child-resistant container compliant with 16 C.F.R. Part 1700 (2018) that has a resealing cap or closure; and
 - (2) Include a measuring device such as a measuring cap or dropper with the package containing the marijuana-infused liquid edible product; hash marks on the bottle or package do not qualify as a measuring device.
- F. Marijuana drinks packaged according to this section may be bundled into a larger marketing layer so long as the total amount of THC per marketing layer does not exceed 100 milligrams.

11.4.2 Labeling for Retail Sale Requirements for Edible Marijuana Products. In addition to Section 11.1.2, any other provisions of this Rule and Maine Title 28-B, all edible marijuana products must clearly display the following information on the marketing layer of the package for retail sale:

- A. Total contents of THC and CBD, stated in milligrams and not more than 10% less or 10% greater than the actual THC and CBD content, including:
 - (1) The total contents of THC and CBD per serving unit; and
 - (2) If the label is on the marketing layer of a package containing more than one serving unit, the total contents of THC and CBD contained within the entire package;
- B. The serving size, which may contain no more than 10 milligrams of THC;
- C. The number of servings per container or marketing layer;
- D. Total net weight of the edible marijuana product separate from the package and label;
- E. A statement in font no smaller than 6 point: "This product contains marijuana. Keep away from children";
- F. If applicable, a list of all ingredients used to manufacture the Edible Marijuana Product, including identification of any major allergens contained in the product in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, 21 U.S.C. § 343 (2010), specifically milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybeans;
- G. A nutritional fact panel in accordance with 21 C.F.R. Part 101 (2018); and
- H. A statement in font no smaller than 6 point: "Effects of this product may not be felt for up to 4 hours."

11.5 - Packaging and Labeling for Retail Sale of Topical Marijuana Products

11.5.1 Retail Sale Packaging for Topical Marijuana Products. Prior to authorized transfer to a marijuana store, all topical marijuana products shall be packaged in a child-resistant container in accordance with the following:

- A. Salves, creams, lotions and balms shall be packaged in a child-resistant container that has a resealing cap or closure compliant with 16 C.F.R. 1700 (2018).
- B. Transdermal patches shall be packaged in a plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner or flap, as to make it difficult for a child to open.

11.5.2 Labeling for Retail Sale of Topical Marijuana Products. In addition to Section 11.1.1, any other provisions of this Rule and Maine Title 28-B, all topical marijuana products must clearly display the following information on the marketing layer of the package for retail sale:

- A. A potency statement for topical marijuana products stating the total content of THC and CBD in milligrams in the container, and for transdermal products the total content of THC and CBD in milligrams contained in each transdermal product;
- B. A list of all ingredients in descending order of predominance by weight or volume as applicable;
- C. The amount recommended for use at any one time; and
- D. The following warning statement: "For Topical Application – Do Not Eat or Smoke."

11.6 - Packaging and Labeling for Storage by a Marijuana Establishment

11.6.1 Storage Prior to Testing. Following samples being taken from a batch of marijuana, a licensee must:

- A. Store the batch in one or more sealed containers enclosed on all sides, so as to:
 - (1) Prevent the product from being tampered with or transferred or sold prior to test results being reported; and
 - (2) Be able to be easily located;
- B. Affix to the container(s) in which the marijuana is stored a label including the following information:
 - (1) The marijuana establishment license number;
 - (2) The batch number;

- (3) Name and number of the individual identification card holder number of the person who took the samples;
 - (4) Name and license number of the testing facility that will perform the tests;
 - (5) The test sample(s) unique identification number;
 - (6) The date the samples were taken; and
 - (7) In bold, capital letters, no smaller than 12-point font, "PRODUCT NOT TESTED";
- C. Report the transfer of the sample into the tracking system and the batch number being sampled.

11.6.2 Storage of Marijuana Not Labeled for Retail Sale. All marijuana or marijuana products stored on the licensed premise must be secured in a limited access area and tracked consistently with the inventory tracking rules.

11.6.3 Health and Safety Standards for Storage. Storage of marijuana and marijuana products shall be under conditions that will protect products against physical, chemical and microbial contamination, as well as against deterioration of any container.

Section 12 - Enforcement

12.1 - Department Enforcement Authority

12.1.1 Inspection of Marijuana Establishments and Premises. A marijuana establishment licensee must provide the Department, or agent thereof, access to inspect a marijuana establishment and premises at any time during the operating hours stated on the operating plan of record of the marijuana establishment or during apparent activity. Licensees shall not deny entrance for inspection, upon demand and without notice required, during any operating hours and other times of apparent activity, or at any other time upon reasonable notice. In any case, the licensee shall assure there is an individual identification card holder on premise to accompany the agent of the Department during the inspection. Licensees shall permit staff or agents of the Department, law enforcement officers and employees or agents of local or state agencies with regulatory authority access to inspect the marijuana establishment and premises in accordance with the statutes, regulations and operating procedures employed by those regulatory bodies.

- A. If a licensee denies the agent of the Department access to a licensed premises, the Department may put an administrative hold on the marijuana establishment license and may impose fines, suspensions or revocation of that license.
- B. If the Department seizes marijuana, the Department shall not cultivate nor preserve any seized marijuana, marijuana plants or marijuana products.
- C. Unless notified by a criminal justice agency of pending investigation of the licensee, the Department may, in its final order, specify the destruction of the seized marijuana, marijuana plants or marijuana products.

12.1.2 Investigation. The Department may, as a result of a complaint filed with the Department, or as a result of its administration of the program, investigate suspected infractions by licensees to any provision of 28-B MRS or this Rule. Infractions that may be investigated include, without limitation:

- A. Failure to comply with operating plan of record;
- B. Failure to properly report inventory in the inventory tracking system;
- C. Unauthorized transfers of marijuana;
- D. Failure to disclose or properly report changes to the record of true parties of interest, parties of control or other interested parties listed in section 3.1.3 of these rules;
- E. Failure to report and submit tax payments;
- F. Failure to comply with the Maine's Electrical Code;
- G. Failure to comply with any conditions required by a municipality, town, plantation, township or county commission for approval of the license;
- H. Any violation of the rules and regulations as set forth by the Department; or
- I. Any conduct by a marijuana establishment licensee not authorized by 28-B MRS or this Rule.

12.1.3 Enforcement Actions. The Department, on its own initiative or on complaint and after investigation, notice and the opportunity for a public hearing, by written order may impose a monetary penalty on a licensee or suspend or revoke the licensee's license for a violation by the licensee or by an agent or employee of the licensee of the provisions of this chapter, the rules adopted pursuant to this chapter or the terms, conditions or provisions of the licensee's license. Additionally, the Department may also revoke an individual identification card for any violation of the Maine Revised Statutes or these rules. Terms, conditions or provisions of the licensee's license shall include all licensing criteria required to be granted a conditional or active license.

- A. Notwithstanding any other criminal, civil or administrative proceedings against the licensee, the Department may take the following actions against licensees, alone or in combination, subject to the requirements of this Section:
 - (1) Impose monetary penalties;
 - (2) Restrict a license;
 - (3) Suspend a license;
 - (4) Revoke a license;
 - (5) Revoke an individual identification card;
 - (6) Accept the voluntary surrender of a license;

- (7) Confiscate or seize marijuana plants, marijuana or marijuana products;
- (8) Destroy marijuana plants, marijuana or marijuana products;
- (9) Recall marijuana or marijuana products; or
- (10) Accept the voluntary surrender of marijuana plants, marijuana or marijuana products;

12.1.4 Procedures for Enforcement Actions. Any enforcement action by the Department shall be made only on the basis of relevant evidence and shall be communicated in writing to the licensee, along with a notice of the licensee's right to appeal, consistent with the Maine Administrative Procedures Act, 5 MRS, chapter 375.

12.2 - Administrative Monetary Penalties

A monetary penalty imposed by the Department on a licensee pursuant to this subchapter may not exceed \$100,000 per license violation. Penalties to be imposed on a licensee based upon specific categories of unauthorized conduct by the licensee, including major and minor license violations, as follows:

- A. Not more than \$100,000 per major license violation affecting public safety
- B. Not more than \$50,000 per other major license violation; and
- C. Not more than \$10,000 per minor license violation.

12.2.1 Major License Violations Affecting Public Safety

- A. The Department may impose a fine of up to \$100,000 for each major license violation affecting public safety.
- B. Such violations include, but are not limited to:
 - (1) Intentionally or recklessly selling marijuana or marijuana products containing any other federally controlled substance, including but not limited to opioids, stimulants or hallucinogens;
 - (2) Intentionally or recklessly using prohibited agricultural chemicals that pose a threat to public health and concealing their use from the Department, other licensees or consumers;
 - (3) Engaging in a deliberate pattern of 2 or more instances of marketing or selling marijuana plants, marijuana or marijuana products to individuals who are younger than 21 years old;
 - (4) Intentionally destroying, damaging, altering, removing or concealing potential evidence of a violation under this subsection, attempting to do so or asking or encouraging another person to do so;
 - (5) Misleading the Department for the purposes of involving a person with a disqualifying drug offense in the operation of a marijuana establishment;
 - (6) Knowingly diverting marijuana or marijuana products to the illicit market;
 - (7) Three or more instances of a licensee failing to have on the premises, at all times during the hours of operation and periods of apparent activity, an individual identification card holder who is authorized to allow and cooperate with Department requests to inspect the premises;
 - (8) Two or more instances of a licensee refusing to permit the Department to inspect the premises during hours of operation or periods of apparent activity; or
 - (9) Other conduct that shows willful or reckless disregard for health and safety.

12.2.2 Major License Violations

- A. The Department may impose a fine of up to \$50,000 for each other major license violation.
- B. Such violations include, but are not limited to:
 - (1) Deliberately making a false statement to the Department, the Maine Revenue Service, the Maine Land Use Planning Council, or any law enforcement officer for the purpose of evading responsibility for any requirements of the Maine Revised Statutes, this Rule, or the license;
 - (2) Deliberately purchasing marijuana plants, marijuana or marijuana products from out of state or outside of the licensed and tracked adult use system;
 - (3) Engaging in a pattern of reporting adult use marijuana plants, marijuana or marijuana products as medical marijuana for the purposes of avoiding taxation or regulation;
 - (4) Selling marijuana plants, marijuana or marijuana products to anyone under the age of 18 by failing to take all necessary steps to verify age;

- (5) Allowing any individual under the age of 21 to engage in any marijuana-related activity.
- (6) Engaging in a pattern of selling or transferring marijuana plants, marijuana or marijuana products outside of the tracking system;
- (7) Supporting, facilitating or willfully or recklessly ignoring suspicious purchasing patterns that suggest a customer is in possession of illegal amounts of marijuana plants, marijuana or marijuana products or is diverting marijuana or marijuana products them to minors or out of state;
- (8) Engaging in a deliberate pattern of minor license violations;
- (9) Intentionally destroying, damaging, altering, removing or concealing potential evidence of a violation that does not threaten public safety, attempting to do so or asking or encouraging another person to do so;
- (10) Two instances of a licensee failing to have on the premises, at all times during the hours of operation and periods of apparent activity, an individual identification card holder who is authorized to allow and cooperate with Department requests to inspect the premises;
- (11) Refusal to permit the Department to inspect the premises during hours of operation or periods of apparent activity; and
- (12) Other conduct that shows a pattern of willful or reckless disregard for the tracking system requirements, sales tax obligations, excise tax obligations, mandatory testing obligations, facility requirements or other provisions of 28-B MRS, 36 MRS, this Rule or other laws or rules.

12.2.3 Minor License Violations

- A. The Department may impose a fine of up to \$10,000 for each minor license violation.
 - B. Such violations include, but are not limited to:
 - (1) Knowingly buying, selling, transferring or receiving any marijuana, marijuana plant or marijuana product that was illegally entered into the tracking system;
 - (2) Allowing anyone without a valid individual identification card to engage in any marijuana-related activity;
 - (3) Selling marijuana plants, marijuana or marijuana products to anyone under the age of 21, but over the age of 18, by failing to take all necessary steps to verify age;
 - (4) Misrepresenting any marijuana product to a consumer, licensee or the public, including:
 - (a) Its contents;
 - (b) Its testing results; or
 - (c) Its potency;
 - (5) Making representations or claims that the marijuana or marijuana product has curative or therapeutic effects;
 - (6) Treating or otherwise adulterating marijuana with any chemical (excluding a controlled substance or prohibited agricultural chemical but including nicotine) that has the effect or intent of altering the usable marijuana's color, appearance, weight or smell or that has the effect or intent of increasing potency, toxicity or addictiveness;
 - (7) Supplying adulterated marijuana items;
 - (8) Failing to report suspicious purchasing patterns that suggest a customer is in possession of illegal amounts of marijuana plants, marijuana or marijuana products or is diverting marijuana or marijuana products to minors or out of state;
 - (9) Refusing to give, or failing to promptly give, a Department regulatory specialist, representative of the State Tax Assessor, or law enforcement officer evidence when lawfully requested to do so.
 - (10) Subletting any portion of the premises;
 - (11) Except by way of authorized transfer of trade samples or testing samples, giving away or otherwise transferring marijuana in exchange for a monetary sum less than the licensee has paid for the marijuana by way of authorized transfer or less than the value the licensee has invested, in labor and materials, in the marijuana;
 - (12) Allowing consumption of marijuana on a marijuana establishment premises, except as allowed by this Rule;
 - (13) Failure to have on the premises, at all times during the hours of operation and periods of apparent activity, an individual identification card holder who is authorized to allow and cooperate with Department requests to inspect the premises;
- or

- (14) Not operating in accordance with the current operations, cultivation or facility plan of record with the Department; or
- (15) Any other violation of the Maine Revised Statutes or these rules.

12.3 - License Restriction, Suspension, Revocation and Voluntary Surrender

The Department shall have the authority to suspend or revoke licenses subject to Title 28-B, Section 802.

12.3.1 Certain Restrictions. The Department may place certain restrictions on licenses in cases where the restrictions may, in addition to other civil or administrative penalties, prevent recurring violations or conflicts with this Rule.

- A. The Department will provide written notice to a licensee if a license is to be restricted and a licensee will be given an opportunity to appeal pursuant to the Maine Administrative Procedure Act, 5 MRS, chapter 307;
- B. A marijuana establishment with a restricted license may only exercise license privileges in compliance with the restrictions of the license;
- C. Failure to comply with restrictions will be a violation of this Rule;
- D. A restriction remains in effect until the Department removes it.

12.3.2 Suspension.

- A. Upon the finding of any license violation described in subsection 12.2, in addition to any monetary penalties, the Department may suspend for a period of up to one year, any or all marijuana establishment licenses held by the licensee found in violation, including any other licenses with a shared party of control or true party of interest.
- B. A licensee whose license has been suspended pursuant to this subchapter may not, for the duration of the period of suspension, engage in any activities relating to the operation of the marijuana establishment the licensee is licensed to operate.
- C. The Department retains discretion as to whether to allow a transfer of license for a suspended license and shall be permitted but not required to allow new owners to begin some or all operations prior to the end of the suspension.

12.3.3 Summary Suspension.

- A. The Department may order summary suspension of a marijuana establishment license for up to 30 days under the following circumstances:
 - (1) The Department concludes, based upon a physical test, inspection or examination conducted by a state-certified inspector, that allowing the licensee to continue operations would not adequately protect public health or public safety; or
 - (2) The Department has other objective and reasonable grounds to believe that public health, public safety or significant natural resources are in immediate jeopardy.
- B. The Department may order summary suspension of a marijuana establishment license if a court issues a ruling that indicates the licensee has committed a major license violation.

12.3.4 Revocation.

- A. Upon the finding of any license violation described in subsection 12.2, in addition to any monetary penalties, the Department may permanently revoke, any or all marijuana establishment licenses held by the licensee found in violation, including any other licenses with a shared party of control or true party of interest.
- B. A licensee whose license has been revoked pursuant to this subchapter shall cease immediately all activities relating to the operation of the marijuana establishment the licensee was previously licensed to operate and shall ensure that all adult use marijuana and adult use marijuana products in the possession of the licensee are forfeited to the Department for destruction in accordance with 28-B MRS§803.
- C. A license that is revoked may not be transferred or renewed.

12.3.5 Voluntary Surrender of License. A licensee facing penalties under this Section may offer to voluntarily surrender its license, meaning that the licensee must cease operations and may not renew or transfer the license. In such cases, the Department has the discretion:

- A. To reject voluntary surrender of license and pursue penalties under this Section;
- B. To accept the voluntary surrender of license made without conditions; or
- C. To negotiate conditions of a voluntary surrender, including but not limited to the following:
 - (1) The amount of monetary penalties, if any are to be imposed;
 - (2) The effect of the voluntary surrender on any other adult use marijuana or medical marijuana licenses with which the licensee is associated;
 - (3) The amount of time before which the licensee or any true party of interest of the licensee may apply for an adult use marijuana or medical marijuana license; and
 - (4) The waiver of appeal.

12.4 - Destruction and Voluntary Surrender of Marijuana Plants, Marijuana and Marijuana Products

12.4.1 Order by the Department.

- A. If the Department issues a final order imposing a monetary penalty on or a license suspension or revocation against a licensee pursuant to this subchapter, the Department may specify in the order, in addition to any other penalties imposed in the order, that all or a portion of the marijuana or marijuana products in the possession of the licensee are not authorized under this chapter and are subject to destruction. A licensee subject to a final order directing the destruction of marijuana or marijuana products in its possession shall forfeit the marijuana and marijuana products described in the order to the Department for destruction.
- B. If the Department is notified by a criminal justice agency that there is a pending investigation of a licensee subject to an order imposed under subsection A, as set forth in 28-B MRS§803, the Department may not destroy any marijuana or marijuana products of that licensee until the destruction is approved by the criminal justice agency.

12.4.2 Voluntary Surrender of Marijuana Plants, Marijuana or Marijuana Products

- A. A Licensee may elect, upon mutual agreement with the Department, to voluntarily surrender any marijuana plants, marijuana or marijuana products to the Department. Such voluntary surrender:
 - (1) Must be made on a form supplied by the Department;
 - (2) Must be signed by an individual who certifies that he or she has authority to represent and bind the licensee; and
 - (3) May require destruction of any marijuana plants, marijuana or marijuana products in the presence of a Department employee or agent and at the licensee's expense; except that no marijuana plants, marijuana or marijuana products may be destroyed until the Department confirms with law enforcement that the marijuana plants, marijuana or marijuana products to be destroyed are not necessary to any ongoing investigation or prosecution.
- B. Such a voluntary surrender may be made:
 - (1) Prior to a final order and upon mutual agreement with the Department;
 - (2) In connection with a stipulated order through which the Licensee waives the right to hearing and any associated rights;
 - (3) In conjunction with a pending action even if the licensee does not waive the right to hearing and any associated rights, with the understanding that the outcome of the hearing does not impact the validity of the voluntary surrender; or
 - (4) After a final order.
- C. If a voluntary surrender is made in conjunction with a final order, including a stipulated order, the Licensee must complete and return the Department's voluntary surrender form within 15 calendar days of the date of the final order.

12.5 - Audit, Compliance and Random Testing

- A. The Department may require a marijuana establishment licensee to submit samples identified by the Department to a laboratory of the licensee's choosing to be tested in order to determine whether a licensee is in compliance with mandatory testing standards and may require additional testing that is conducted at laboratory of the Department's choosing.
- B. A laboratory doing audit testing must comply with applicable provisions of this Rule, and if conducting testing not required by this Rule, may only use Department approved methods.
- C. The Department may require a licensee to submit samples to the Department for any mandatory or additional testing to be conducted by a testing facility.
- D. The Department may order the removal from retail sale of any marijuana items for which a licensee has intentionally misrepresented testing results.
- E. The Department may exempt a product at its sole discretion.

12.6 - Seizure or Confiscation of Marijuana, Marijuana Concentrate or Marijuana Products

12.6.1. Authority. The Department may seize, destroy, confiscate or place an administrative hold on any marijuana or marijuana products under, but not limited to, the following circumstances:

- A. Any marijuana or marijuana products not properly logged in inventory records or the tracking system;
- B. Any marijuana or marijuana products that are altered or not properly packaged and labeled in accordance with this Rule in general and Section 11 specifically;
- C. Any marijuana or marijuana products that has been cultivated, harvested, processed or transferred in a manner, or otherwise in a form, not compliant with 28-B MRS, this Rule or rules governing the Maine Medical Use of Marijuana Program.

12.6.2. Administrative Holds. Department officers may order an administrative hold of marijuana or marijuana products to prevent destruction of evidence, diversion or other threats to public safety, while permitting a licensee to retain its inventory pending further investigation, pursuant to the following procedure:

- A. If during an investigation or inspection of a licensee, an employee or agent of the Department develops reasonable grounds to believe certain marijuana plants, marijuana or marijuana products constitute evidence of acts in violation of 28-B MRS or this Rule or constitute a threat to the public health or safety, the employee or agent may issue a notice of administrative hold of any such marijuana plants, marijuana or marijuana products. The notice of administrative hold shall provide a documented description of the marijuana plants, marijuana or marijuana products to be subject to the administrative hold and a concise statement that is promptly issued and approved by the director of the Office of Marijuana Policy or a designee regarding the reasons for issuing the administrative hold.
- B. Following the issuance of a notice of administrative hold, the Department will identify the marijuana plants, marijuana or marijuana products subject to the administrative hold in the tracking system. The licensee shall continue to comply with all tracking requirements.
- C. The licensee shall completely and physically segregate the marijuana plants, marijuana or marijuana products subject to the administrative hold in a limited access area of the licensed premises under investigation, where it shall be safeguarded by the licensee.
- D. While the administrative hold is in effect, the licensee is prohibited from selling, giving away, transferring, transporting or destroying the marijuana plants, marijuana or marijuana products subject to the administrative hold, except as otherwise authorized by these rules.
- E. While the administrative hold is in effect, the licensee must safeguard the marijuana plants, marijuana or marijuana products subject to the administrative hold, must maintain the licensed premises in reasonable condition according to health, safety and sanitary standards, and must fully comply with all security requirements, including but not limited to all surveillance, lock and alarm requirements detailed in the security plans, 28-B MRS or this Rule.
- F. Nothing herein shall prevent a licensee from voluntarily surrendering marijuana plants, marijuana or marijuana products that is subject to an administrative hold, except that the licensee must follow the procedures set forth in Section 12.4.
- G. Nothing herein shall prevent a licensee from the continued possession, cultivation or harvesting of the marijuana plants, marijuana or marijuana products subject to the administrative hold.

- H. At any time after the initiation of the administrative hold, the Department may lift the administrative hold, order the continuation of the administrative hold pending the administrative process or seek other appropriate relief.

12.7 - Marijuana Recalls

The Department may require a licensee to recall any marijuana and marijuana product that the licensee has sold or transferred upon a finding that circumstances exist that pose a risk to public health and safety.

- A. A recall may be based on, without limitation, evidence that:
- (1) Marijuana or marijuana product contains an unauthorized pesticide(s);
 - (2) Marijuana or marijuana product failed a mandatory test and was not mitigated pursuant to testing protocols;
 - (3) Marijuana or marijuana product is contaminated or otherwise unfit for human use, consumption or application;
 - (4) Marijuana or marijuana product is not properly packaged or labeled; or
 - (5) Marijuana or marijuana product was not cultivated, processed or manufactured by a marijuana establishment.
- B. If the Department finds that a recall is required, the Department:
- (1) Must notify the public and licensees of the recall;
 - (2) Must administratively hold all affected marijuana items in the tracking system;
 - (3) May require a licensee to notify an individual to whom a marijuana item was sold; and
 - (4) May require that the licensee destroy the recalled product.

Section 13 - Fee Schedule

13.1 - Payment of Fees

13.1.1 Application Fees. An applicant shall pay the application fee required by the Department at the time that the applicant submits an application for licensure to the Department for processing.

13.1.2 License Fees. Before issuing an active license, the Department shall invoice the conditional licensee for the applicable fee as determined by the Department pursuant to Title 28-B and this Rule. The Department shall not accept any license fees except pursuant to such invoice.

13.2 - Return of Fees Prohibited

Pursuant to 28-B MRS§207(5), the Department may not return to an applicant or licensee or reimburse an applicant or licensee for any portion of an application or license fee paid by the applicant or licensee, regardless of whether the applicant withdraws its application prior to a final decision of the Department on the application, the licensee voluntarily terminates its license pursuant to 28-B MRS and this Rule or the Department suspends or revokes the licensee's license in accordance with the provisions of 28-B MRS and this Rule.

13.3 - Individual Identification Card Fees

<u>Card Type</u>	<u>Fee</u>
Original Issuance	\$50.00 plus cost of fingerprinting and criminal history record check
Annual Renewal	\$50.00
Reissuance (lost, stolen, damaged, info change)	\$50.00

13.4 - Fingerprinting and Criminal History Record Check Fee

The fee for the fingerprinting and criminal history record checks shall be set by the State Police and/or State Bureau of Identification, in accordance with its usual operations.

13.5 - Tracking System Fees

Each licensee is responsible for all costs associated with its use of the tracking system and any associated vendor fees.

13.6 - Cultivation Facility Application and License Fees

<u>License Class</u>	<u>Application Fee</u>	<u>Annual License Fee</u> <u>Outdoor Only</u>	<u>Indoor/Both</u>
Tier 1 Cultivation Facility			
Plant-Count-Based	\$100.00	\$9.00/mature plant	\$17/mature plant
Plant-Canopy-Based	\$100.00	\$250.00	\$500.00
Tier 2 Cultivation Facility	\$500.00	\$1,500.00	\$3,000.00
Tier 3 Cultivation Facility	\$500.00	\$5,000.00	\$10,000.00
Tier 4 Cultivation Facility	\$500.00	\$15,000.00	\$30,000.00
Nursery Cultivation Facility	\$60.00	\$350.00	\$350.00

13.7 - Other Marijuana Establishment Application and License Fees

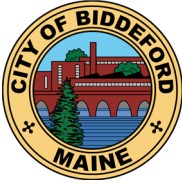
<u>License Class</u>	<u>Application Fee</u>	<u>License Fee</u>
Products Manufacturing Facility	\$250.00	\$2,500.00
Marijuana Store	\$250.00	\$2,500.00
Testing Facility	\$250.00	\$1,000.00

13.8 - Other Marijuana Establishment Fees

<u>Fee Type</u>	<u>Application Fee</u>
Transfer of Ownership	\$250.00
Relocation	\$250.00

13.9 - Annual Renewal and Late Renewal Application and License Fees

All renewal application and license fees shall be due annually in the amounts listed above in Section 13 of this Rule and submitted in accordance with Section 13.1 of this Rule, except that the Department may require payment of \$2,500.00 in addition to the relevant application fee for renewal applications received less than 30 days prior to the date of expiration of the license. The Department may not accept an application for renewal of a license after the date of expiration of that license.



City of Biddeford

Chief Operating Officer/Technology Dept/IPP
P.O. Box 586 • 205 Main Street
Biddeford, ME 04005
Phone: (207) 571-0032 • Fax: (207) 571-0656

Briefing Memo

TO: Honorable Mayor Alan Casavant
Honorable City Council

CC: James Bennett
Carmen Morris
Mathew Eddy

FROM: Brian S. Phinney, COO/Technology/IPP

DATE: June 6, 2019

RE: Council Workshop – Discussion, Possible FY21 Senior Tax Credit Program

Tax relief, particularly for low-income seniors, has become an increasingly important issue. As inflation outpaces social security benefit increases and medical costs rise, even small increases in monthly expenses can result in the need to decide on whether or not to buy food, medication, or pay bills.

Maine law provides for a variety of partial exemptions from property taxes for eligible residents. The exemptions are intended to reduce the taxable valuation of property. [The Maine Revenue Service's web site](#) has all of the applications for these programs. State law requires that applications must be received in the Assessor's Office by specific dates in order to be applied to that year's tax bill. Examples are as follows.

Homestead Exemption: A reduction of up to \$20,000 in the taxable value of property. The applicant is eligible for only one homestead exemption on a primary residence, and must have owned the home for at least one year before the April 1 of the year the application takes effect. Application deadline: April 1 of each year.

Blind Persons Exemption: A reduction of up to \$4,000 in the taxable value of the property. Requires a physician to certify applicant is legally blind. Application deadline: April 1 of each year.

Veteran's Exemption: A reduction of up to \$6,000 in the taxable value of the property. Requires that the applicant be age 62 or older or considered 100% disabled, and to have served during specific federally recognized war periods. Paraplegic veterans are entitled to a higher exemption account. Application deadline: April 1 of each year.

Veteran's Survivor Exemption: A reduction of up to \$6,000 in the taxable value of the property. Requires the veteran to have served during specific federally recognized war periods. Additional benefits may be available for surviving spouses, minor children and parents of veterans. Application deadline: Generally April 1 of each year, although the assessor may allow application at other times if within twelve months of a veteran's death. Survivors of paraplegic veterans are entitled to a higher exemption amount.

The Homestead, Blind, Veteran's and Veteran's Survivor exemptions all appear on an individual's tax bill as reductions in the taxable valuation of the property. Generally, residents need only apply once for these exemptions; they will automatically continue in future years unless the primary residence changes.

Property Tax Fairness Credit: An annual application is required to obtain the Property Tax Fairness Credit, a State of Maine program that reimburses property owners for a portion of property taxes paid. The Property Tax Fairness Credit (formerly the "Circuitbreaker" program) is obtained by filing an application as part of an individual's annual Maine income tax return. If an applicant generally does not have to file a Maine income tax return, he/she/they must use the tax return form to apply for the credit. The credit is calculated based on an exceedance of 6% of gross income and may not exceed \$750 for resident individuals younger than 65 years of age or \$1,200 for residents 65 years old and older. The credit also applies to renters based on a gross rent adjustment.

Sales Tax Fairness Credit: A tax credit of between \$125 and \$175 depending on Maine income tax filing status and other eligible deductions. The amount of the credit is reduced in increments based on income that exceeds \$20,000 (single), \$30,000 (individual head of household), and \$40,000 (married filing jointly).

The State also allows municipalities to adopt a property tax assistance program under 36 M.R.S. §6232, see Attachment 1. Under the program, the municipality may restrict eligibility to those at least age 62 and older. The legislation contains three conditions:

- (1) The claimant has a homestead in the municipality;
- (2) Provide benefits for both owners and renters of homesteads; and
- (3) Calculate benefits in a way that provides greater benefits proportionally to claimants with lower incomes in relation to their property taxes accrued or rent constituting property taxes accrued.

Dating back to 2010 and extending through September of 2011, the City Council and Policy Committee evaluated an “*Ordinance to Protect Elderly Residents from Losing their Homes due to Taxes or Foreclosures*”. The ordinance focused on creating a program under the State Property Tax Deferral Program for Senior Citizens, 36 M.R.S. §6721, included as Attachment 2. Meeting minutes and ordinance text are available for review; however, due to changes in State law tax deferral program discussions were deemed no longer relevant to the tax assistance issue. The 2011 process did end with creation of a draft document titled, “City of Biddeford Property Tax Assistance Ordinance”, see Attachment 3. The so-called Property Tax Assistance Ordinance resembles, in part, current ordinances adopted by Gorham, York, and Cumberland. A copy of each respective ordinance is provided as Attachment 4.

Additionally, a municipality may by ordinance adopt a program that permits claimants who are at least 60 years of age to earn benefits up to a maximum of \$750 by volunteering to provide services to the municipality, see Attachment 1. A program adopted under this subsection does not need to meet the requirements of conditions (2) and (3), above. Benefits provided under this subsection must be related to the amount of volunteer service provided. A municipality may, by ordinance, establish procedures and additional standards of eligibility.

The City of Saco adopted a volunteer service tax relief ordinance in 2008, further amended in 2014, under 36 M.R.S. §6232. Saco’s Volunteer Citizen Work-off Program allows residents age 60 and older, meeting certain guidelines, to obtain a \$750 tax credit after completing 75 hours of service time, see Attachment 5. One of the primary service opportunities in Saco is the position of greeter at the Saco train station.

Attachment 1

Enabling Legislation
Municipal Property Tax Assistance, 36 M.R.S. §6232

Maine Revised Statutes
Title 36: TAXATION
Chapter 907-A: MUNICIPAL PROPERTY TAX ASSISTANCE

§6232. MUNICIPAL AUTHORITY

The legislative body of a municipality may by ordinance adopt a program to provide benefits to persons with homesteads in the municipality. A municipality may choose to restrict the program to persons who are at least 62 years of age. [2005, c. 395, §4 (NEW).]

1. Conditions of program. Except as provided in subsection 1-A, a program adopted under this section must:

- A. Require that the claimant has a homestead in the municipality; [2005, c. 395, §4 (NEW).]
- B. Provide benefits for both owners and renters of homesteads; and [2005, c. 395, §4 (NEW).]
- C. Calculate benefits in a way that provides greater benefits proportionally to claimants with lower incomes in relation to their property taxes accrued or rent constituting property taxes accrued. [2005, c. 395, §4 (NEW).]

[2007, c. 635, §1 (AMD) .]

1-A. Volunteer program. A municipality may by ordinance adopt a program that permits claimants who are at least 60 years of age to earn benefits up to a maximum of \$750 by volunteering to provide services to the municipality. A program adopted under this subsection does not need to meet the requirements of subsection 1, paragraph B or C. Benefits provided under this subsection must be related to the amount of volunteer service provided. Benefits received under this subsection may not be considered income for purposes of Part 8. A municipality may by ordinance establish procedures and additional standards of eligibility for a program adopted under this subsection.

[2007, c. 635, §2 (NEW) .]

2. Relationship to state program.

[2013, c. 455, §2 (RP) .]

3. Repeal of program. A municipality that has adopted a program under this section may repeal it through the same procedure by which the program was adopted.

[2005, c. 395, §4 (NEW) .]

SECTION HISTORY

2005, c. 395, §4 (NEW). 2007, c. 635, §§1, 2 (AMD). 2013, c. 455, §2 (AMD) .

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Attachment 2

Property Tax Deferral Program for Senior Citizens, 36 M.R.S. §6271

Maine Revised Statutes
Title 36: TAXATION
Chapter 908-A: MUNICIPAL PROPERTY
TAX DEFERRAL FOR SENIOR CITIZENS

§6271. MUNICIPAL AUTHORITY

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible homestead" means the owner-occupied principal dwelling, either real or personal property, owned by a taxpayer and the land upon which it is located. If the dwelling is located in a multiunit building, the eligible homestead is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements and of the value of the tax lot upon which it is built. The percentage is the value of the dwelling compared to the total value of the building exclusive of the common elements, if any. [2009, c. 489, §5 (NEW).]

B. "Federal poverty level" means the nonfarm income official poverty line for a family of the size involved, as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2. [2009, c. 489, §5 (NEW).]

C. "Household income" has the meaning set out in section 6201, subsection 7. [2009, c. 489, §5 (NEW).]

D. "Program" means a tax deferral program adopted by a municipality pursuant to subsection 2. [2009, c. 489, §5 (NEW).]

E. "Tax-deferred property" means the property upon which taxes are deferred under this chapter. [2009, c. 489, §5 (NEW).]

F. "Taxes" or "property taxes" means ad valorem taxes, assessments, fees and charges entered on the assessment and tax roll. [2009, c. 489, §5 (NEW).]

G. "Taxpayer" means an individual who is responsible for payment of property taxes and has applied to participate or is currently participating in the program under this chapter. [2009, c. 489, §5 (NEW).]

[2009, c. 489, §5 (NEW) .]

2. Authority. The legislative body of a municipality may by ordinance adopt a property tax deferral program for senior citizens, referred to in this section as "the program." Upon application by a taxpayer, a municipality may defer property taxes on property if the following conditions are met:

A. The property is an eligible homestead where the taxpayer has resided for at least 10 years prior to application; [2009, c. 489, §5 (NEW).]

B. The taxpayer is an owner of the eligible homestead, is at least 70 years of age on April 1st of the first year of eligibility and occupies the eligible homestead; and [2009, c. 489, §5 (NEW).]

C. The household income of the taxpayer does not exceed 300% of the federal poverty level. [2009, c. 489, §5 (NEW).]

An application, information submitted in support of an application and files and communications relating to an application for deferral of taxes under the program are confidential. Hearings and proceedings held by a municipality on an application must be held in executive session unless otherwise requested by the applicant. Nothing in this paragraph applies to the recording of liens or lists under subsection 3 or any enforcement proceedings undertaken by the municipality pursuant to this chapter or other applicable law.

The municipality shall make available upon request the most recent list of tax-deferred properties of that municipality required to be filed under subsection 3. The municipality may publish and release as public information statistical summaries concerning the program as long as the release of the information does not jeopardize the confidentiality of individually identifiable information.

[2009, c. 489, §5 (NEW) .]

3. Effect of deferral. If property taxes are deferred under the program, the lien established on the eligible homestead under section 552 continues for the purpose of protecting the municipal interest in the tax-deferred property. Interest on the deferred taxes accrues at the rate of 0.5 percentage points above the otherwise applicable rate for delinquent taxes. In order to preserve the right to enforce the lien, the municipality shall record in the county registry of deeds a list of the tax-deferred properties of that municipality. The list must contain a description of each tax-deferred property as listed in the municipal valuation together with the name of the taxpayer listed on the valuation. The list must be updated annually to reflect the addition or deletion of tax-deferred properties, the amount of deferred taxes accrued for each property and payments received.

The recording of the tax-deferred properties under this subsection is notice that the municipality claims a lien against those properties in the amount of the deferred taxes plus interest together with any fees paid to the county registry of deeds in connection with the recording. For a property deleted from the list, the recording serves as notice of release or satisfaction of the lien, even though the amount of taxes, interest or fees is not listed.

[2017, c. 170, Pt. B, §10 (AMD) .]

4. Notice. The State Tax Assessor shall prepare a one-page notice of the effect of the deferral of property taxes under this section, of the right of the municipality to file a tax lien mortgage pursuant to chapter 105 and that the deferred taxes become due and payable as established in subsection 5. This notice must have a readability score, as determined by a recognized instrument for measuring adult literacy levels, equivalent to no higher than a 6th grade reading level. A municipality that adopts the program shall provide a copy of this notice to each taxpayer applying to the program at the time of application and shall also annually provide to each taxpayer in the program, in lieu of a property tax bill, a copy of this notice together with an accounting of taxes deferred and interest accrued.

[2009, c. 489, §5 (NEW) .]

5. Lien. When it is determined that one of the events set out in subsection 6 has occurred and that a property is no longer eligible for property tax deferral under this chapter, the municipality shall send notice by certified mail to the taxpayer, or the taxpayer's heirs or devisees, listing the total amount of deferred property taxes, including accrued interest and costs of all the years and establishing a due and payable date. For events listed in subsection 6, paragraphs A, B and C, payment is due within 45 days of the date of the notice. When the event listed in subsection 6, paragraph D occurs, the total amount of deferred taxes is due and payable 5 days before the date of removal of the property from the State. The municipality shall include in the notice a statement that the lien enforcement procedures pursuant to chapter 105, subchapter 9 apply.

If the deferred tax liability of a property has not been satisfied by the date established pursuant to this subsection, the municipality may enforce the lien according to procedures in chapter 105, subchapter 9.

Partial payments accepted during the 18-month redemption period provided for in section 943 may not interrupt or extend the redemption period or in any way affect foreclosure procedures.

[2009, c. 489, §5 (NEW) .]

6. Events requiring the payment of deferred tax and interest. Subject to subsection 7, all deferred taxes and accrued interest must be paid pursuant to subsection 5 when:

A. The taxpayer dies; [2009, c. 489, §5 (NEW) .]

B. Some person other than the taxpayer becomes the owner of the property; [2009, c. 489, §5 (NEW) .]

C. The tax-deferred property is no longer occupied by the taxpayer as a principal residence, except that this paragraph does not apply if the taxpayer is required to be absent from the eligible homestead for health reasons; or [2009, c. 489, §5 (NEW) .]

D. The tax-deferred property, a mobile home, is moved out of the State. [2009, c. 489, §5 (NEW) .]

[2009, c. 489, §5 (NEW) .]

7. Election to continue deferral. If one of the events listed in subsection 6 occurs, and the ownership of the eligible homestead is transferred to another member of the same household, the transferee may apply to the municipality for continuation of the deferral of taxes if the transferee meets the conditions in subsection 2, paragraphs B and C.

[2009, c. 489, §5 (NEW) .]

8. Repeal of program. A municipality that has adopted the program under this section may discontinue it through the same procedure by which the program was adopted; however, any taxes deferred under the program continue to be deferred under the conditions of the program on the date it was ended.

[2009, c. 489, §5 (NEW) .]

SECTION HISTORY

2009, c. 489, §5 (NEW). 2017, c. 170, Pt. B, §10 (AMD).

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Attachment 3

DRAFT

City of Biddeford Property Tax Assistance Ordinance
Circa 2011

CITY OF BIDDEFORD PROPERTY TAX ASSISTANCE ORDINANCE

Section 1. Purpose

The purpose of this Ordinance is to establish a program to provide property tax assistance to persons **67** years of age and over who reside in the City of Biddeford. Under this program, the City of Biddeford will provide supplemental cash refund payments to those individuals who qualify as Biddeford resident beneficiaries of the State of Maine Residents Property Tax Program pursuant to Chapter 907 of Title 36 of the Maine Revised Statutes and meet the criteria established by this Ordinance.

Section 2. Definitions

Homestead: A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be occupied by that person and that person's dependents as a home.

Qualifying applicant: A qualifying applicant is a person who is determined by the City Manager, after review of a complete application under Section 4 of this Ordinance, to be eligible for a refund payment under the terms of this Ordinance.

Section 3. Criteria for Participation

In order to participate in the Property Tax Assistance Program, an applicant shall demonstrate all of the following:

- a. The applicant shall be **67** years of age or more at the time of application.
- b. The applicant shall have a homestead in the City of Biddeford at the time of the application and for the entire year prior to the date of application.
- c. The applicant has received a refund under the provisions of Chapter 907 of 36 M.R.S.A.
- d. The applicant has been a resident of the City of Biddeford for at least ten years immediately proceeding the date of application for participation in the Program.

Section 4. Application and Payment Procedures

Persons seeking to participate in the Property Tax Assistance Program shall submit a written request to the City Manager no later than **January 15, 2011**. Applications are required every year to participate in this program. The City Manager shall provide an application form for the program, which shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be proof and dollar amount (copy of check) of State Refund under Chapter 907 of Title 36 (State Circuit Breaker Program). The City Manager shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the Program. The City Manager shall notify an applicant if an application is determined to be incomplete. The City Manager's decision on eligibility to participate in the Program shall be final.

Section 5. Determination of eligibility and amount of eligibility

If the City Manager determines that the applicant is eligible to participate in the Program, he shall determine the total amount of such eligibility. Eligibility shall be the lesser of the following amounts:

- a. The amount of the refund awarded by the State under Chapter 907, Title 36 M.R.S.A. (Maine Circuit Breaker Program) or;
- b. Available monies in the City Circuit Breaker fund or;
- c. **\$750.00.**

The City Manager shall report to the City Council at their first meeting in **January** each year the projected payments and number of eligible applicant requesting assistance for the program fund.

Section 6. Program Fund - Limitations upon payments

Payments under this Ordinance shall be conditioned upon the existence of sufficient monies in the Program Fund the year in which participation is sought. If there are not sufficient monies in the Program Fund to pay all qualifying applicants under this Ordinance, payments shall be limited to the amounts available in the Fund. In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request will not carry over to the next year.

Section 7. Creation of the Program Fund

The Program Fund from which payments shall be made under the terms of this Ordinance shall be created as follows:

As funds are available, the City Council shall annually appropriate monies from the general fund or other sources to support this program. Any surplus monies available after all payments have been made shall be carried forward within the Fund to the next fiscal year.

Section 8. Timing of Payments

A person who qualifies for payment under this Program shall be mailed a check for the full amount (or pro-rated amount if inadequate funds are available) no later than **January 15th** for the year in which participation is sought.

Section 9. Limitations upon payments

Only one qualifying applicant per household shall be entitled to payment under this Program each year. The right to file an application under this Ordinance is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney-in-fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the City Manager shall be disbursed to another member of the household as determined by the City Assessor or the City Manager. If the applicant was the only member of a household, then no payment shall be made under this Ordinance.

Attachment 4

Property Tax Assistance Ordinances adopted by Gorham, York, and Cumberland

*Town of Cumberland, ME
Wednesday, June 5, 2019*

Chapter 261. Taxation

Article I. Property Tax Assistance

[Adopted 1-22-2007; amended in its entirety 12-14-2015]

§ 261-1. Purpose.

[Amended 7-10-2017]

The purpose of this article is to establish a program to provide property tax assistance to persons 70 years of age and over who reside in the Town of Cumberland. Under this program, the Town of Cumberland will provide refund payments to those individuals who maintain a homestead in the Town of Cumberland and meet the criteria established by this article.

§ 261-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BENEFIT BASE

Property taxes paid by a qualifying applicant during the tax year on the qualifying applicant's homestead or rent constituting property taxes paid by the resident individual during the tax year on a homestead.

[Amended 7-10-2017]

HOMESTEAD

For purposes of this article, "homestead" shall have the same meaning as defined in 36 M.R.S.A. § 5219-KK(1)(C). Generally, a homestead is a dwelling owned or rented by the person seeking tax assistance under this article or held in a revocable living trust for the benefit of that person. The dwelling must be occupied by that person and that person's dependents as a home.

INCOME

Total household income as determined by the total (gross) income reported on the applicant's most recent federal income tax return (line 22 of Form 1040; line 15 of Form 1040A; line four of Form 1040EZ), plus the total (gross) income reported on the most recent federal income tax return of each additional member of the household if filing separately. If the applicant and/or any member of the household do not file a federal income tax return, income shall be the cumulative amount of all income received by the applicant and each additional member of the household from whatever source derived, including, but not limited to, the following items:

[Added 7-10-2017]

- A. Compensation for services, including wages, salaries, tips, fees, commissions, fringe benefits and similar items;
- B. Gross income derived from business;
- C. Gains derived from dealings in property (capital or other);
- D. Interest;
- E. Rents from real estate;
- F. Royalties;
- G. Dividends;
- H. Alimony and separate maintenance payments received;
- I. Annuities;
- J. Pensions;
- K. Income from discharge of indebtedness;
- L. Distributive share of partnership gross income;
- M. Income from an interest in an estate or trust;
- N. IRA distributions;
- O. Unemployment compensation; and
- P. Social security benefits.

QUALIFYING APPLICANT

A person who is determined by the Town Manager or his designee, after review of a complete application under § **261-4** of this article, to be eligible for a refund payment under the terms of this article.

RENT CONSTITUTING PROPERTY TAX

Fifteen percent of the gross rent actually paid in cash or its equivalent during the tax year solely for the right of occupancy of a homestead. For the purposes of this article, "gross rent" means rent paid at arm's length solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement.

§ 261-3. Criteria for participation.

In order to participate in the property tax assistance program, an applicant shall demonstrate all of the following:

- A. The applicant shall be 70 years of age or more at the time of application.
[Amended 7-10-2017]
- B. The applicant shall have a homestead in the Town of Cumberland at the time of the application and for the entire year prior to the date of application.

- C. The applicant has been a resident of the Town of Cumberland for at least 10 years immediately preceding the date of application for participation in the Program.
- D. The applicant shall meet the application and eligibility criteria set forth in §§ **261-4** and **261-5** of this article.

§ 261-4. Application and payment procedures.

- A. Persons seeking to participate in the property tax assistance program shall submit an application to the Town Manager no later than August 1 of the year for which the refund is requested. Applications are required for every year the applicant seeks to participate in this program. The application form for the program shall be made available upon request in the Town Manager's office and shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be proof of household income.
- B. Applicants shall also submit proof of property taxes paid or rent constituting property taxes paid during the tax year on the individual's homestead in the Town of Cumberland.
- C. The Town Manager shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the program. The Town Manager shall notify an applicant if an application is determined to be incomplete. The Town Manager's decision on eligibility to participate in the program shall be final.

§ 261-5. Determination of eligibility and amount.

[Amended 7-10-2017]

- A. Eligibility under this article is designed to provide greater benefits proportionally to applicants with lower income in relation to their benefit base. Applicants with income greater than an amount equal to 90% of the current United States Department of Housing and Urban Development metropolitan area median family income shall not be eligible for benefits under this article. Eligible applicants will receive a benefit totaling the amounts set forth in Subsection **A(1)** and **(2)** as follows, provided that the cumulative maximum benefit allowed shall be \$750:
 - (1) The total amount of any increase to the applicant's benefit base from the most recent tax year to the current tax year; and
 - (2) Benefits based on a calculation of the applicant's benefit base as a percentage of their income $[(\text{Benefit}/\text{Income}) \times 100 = \text{Benefit base as percent of income.}]$
 - (a) If the benefit base as a percent of income is greater than 10%, the applicant will receive \$350;
 - (b) If the benefit base as a percent of income is 8% to 10% of income, the applicant will receive \$250;
 - (c) If the benefit base as a percent of income is 6% to 7% of income, the applicant will receive \$150;
 - (d)

If the benefit base as a percent of income is 5% or less, the applicant will receive \$50.

§ 261-6. Limitations on payments.

- A. The Town Manager shall report to the Town Council for its approval at its second meeting in August each year the projected payments and number of eligible applicants requesting assistance from the program fund.
- B. Payments under this article shall be conditioned upon the existence of sufficient monies in the program fund for the year in which participation is sought. If there are not sufficient monies in the program fund to pay all qualifying applicants under this article per the calculations set forth in § **261-5**, payments shall be limited to the amounts available in the fund and may be prorated accordingly. In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request and/or unpaid balance will not carry over to the next year.
[Amended 7-10-2017]

§ 261-7. Creation of program fund.

The program fund from which payments shall be made under the terms of this article shall be created as follows:

- A. As funds are available, the Town Council shall annually appropriate monies from the general fund or other sources to support this program.
- B. Any surplus monies available after all payments have been made shall be carried forward within the fund to the next fiscal year.

§ 261-8. Timing of payments.

A person who qualifies for payment under this program shall be mailed a check for the benefit amount for which he/she is eligible under § **261-5** no later than 14 days from the date of Council approval of the applications for the year in which participation is sought.

§ 261-9. One applicant per household.

Only one qualifying applicant per household shall be entitled to payment under this program each year. Eligibility shall be determined based on total household income. The right to file an application under this article is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney in fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Town Manager shall be disbursed to another member of the household as determined by the Town Manager. If the applicant was the only member of a household, then no payment shall be made under this article.



**TOWN OF GORHAM
SENIOR PROPERTY TAX
ASSISTANCE ORDINANCE**

Adopted January 2, 2018

ARTICLE I

Property Tax Assistance

Purpose

The purpose of this article is to establish a program to provide property tax assistance to persons 65 years of age and over who reside in the Town of Gorham. Under this program, the Town of Gorham will provide refund payments to those individuals who maintain a homestead in the Town of Gorham and meet the criteria established by this article.

ARTICLE II

Definitions.

As used in this article, the following terms shall have the meanings indicated:

A. BENEFIT BASE — Property taxes paid by a qualifying applicant during the tax year on the qualifying applicant's homestead or rent constituting property taxes paid by the resident individual during the tax year on a homestead.

B. HOMESTEAD — For purposes of this article, "homestead" shall have the same meaning as defined in 36 M.R.S.A. § 5219-KK(1)(C). Generally, a homestead is a dwelling owned or rented by the person seeking tax assistance under this article or held in a revocable living trust for the benefit of that person. The person must reside in the homestead at least 9 months of the calendar year.

C. INCOME — Total household income as determined by the total (gross) income reported on the applicant's most recent federal income tax return (line 22 of Form 1040; line 15 of Form 1040A; line four of Form 1040EZ), plus the total (gross) income reported on the most recent federal income tax return of each additional member of the household if filing separately. If the applicant and/or any member of the household do not file a federal income tax return, income shall be the cumulative amount of all income received by the applicant and each additional member of the household from whatever source derived, including, but not limited to the following:

- i. Compensation for services, including wages, salaries, tips, fees, commissions, fringe benefits and similar items;
- ii. Gross income derived from business;
- iii. Gains derived from dealings in property (capital or other);
- iv. Interest;
- v. Rents from real estate;
- vi. Royalties;
- vii. Dividends;
- viii. Alimony and separate maintenance payments received;
- ix. Annuities;
- x. Pensions;
- xi. Income from discharge of indebtedness;
- xii. Distributive share of partnership gross income;
- xiii. Income from an interest in an estate or trust;
- xiv. IRA distributions;
- xv. Unemployment compensation; and
- xvi. Social security benefits.

D. QUALIFYING APPLICANT — A person who is determined by the Town Clerk or her designee, after review of a complete application under Article 2 of this ordinance, to be eligible for a refund payment under the terms of this article.

E. RENT CONSTITUTING PROPERTY TAX — Fifteen percent of the gross rent actually paid in cash or its equivalent during the tax year solely for the right of occupancy of a homestead. For the purposes of this article, "gross rent" means rent paid at arm's length solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement.

In order to participate in the property tax assistance program, an applicant shall demonstrate all of the following:

- i. The applicant shall be 65 years of age or more at the time of application.
- ii. The applicant shall have a homestead in the Town of Gorham at the time of the application and for the entire year prior to the date of application.
- iii. The applicant has been a resident of the Town of Gorham for at least five years immediately preceding the date of application for participation in the program.
- iv. The applicant shall meet the application and eligibility criteria set forth in Section A and Section B of this article.

ARTICLE III

Application and payment procedures.

Persons seeking to participate in the property tax assistance program shall submit an application to the Town Clerk no later than August 1 of the year for which the refund is requested. Applications are required for every year the applicant seeks to participate in this program. The application form for the program shall be made available upon request in the Town Clerk's office and shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be proof of household income.

Applicants shall also submit proof of property taxes paid or rent constituting property taxes paid during the tax year on the individual's homestead in the Town of Gorham.

The Town Clerk or a designee shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the program. The Town Clerk or the designee shall notify an applicant if an

application is determined to be incomplete within 2 weeks of the application being submitted. The Town Clerk's or the designee's decision on eligibility to participate and benefit base amount in the program shall be final. Appeals to the Town Clerk's or the designee's determinations are to be submitted in writing to the Town Council within 14 days of Town Clerk's or the designee's determinations. The Town Council will then review and make a determination within 30 days of receipt of an appeal.

Determination of eligibility and amount.

A. Eligibility under this article is designed to provide greater benefits proportionally to applicants with lower income in relation to their benefit base. Applicants with income greater than an amount equal to 90% of the current United States Department of Housing and Urban Development metropolitan area median family income shall not be eligible for benefits under this article. Eligible applicants will receive a benefit totaling the amounts set forth in Subsection A(1) and (2) as follows, provided that the cumulative maximum benefit allowed shall be \$500:

The total amount of any increase to the applicant's benefit base from the most recent tax year to the current tax year; and

Benefits based on a calculation of the applicant's benefit base as a percentage of their income $[(\text{Benefit}/\text{Income}) \times 100 = \text{Benefit base as percent of income.}]$

If the benefit base as a percent of income is greater than 10%, the applicant will receive \$500;

If the benefit base as a percent of income is 8% to 10% of income, the applicant will receive \$350;

If the benefit base as a percent of income is 5% to 7% of income, the applicant will receive \$200;

ARTICLE IV

Limitations on payments.

The Town Manager shall report to the Town Council for its approval at its September meeting each year the projected payments and number of eligible applicants requesting assistance from the program fund.

Payments under this article shall be conditioned upon the existence of sufficient monies in the program fund for the year in which participation is sought. If there are not sufficient monies in the program fund to pay all qualifying applicants under this article per the calculations set forth in Section II (E), payments shall be limited to the amounts available in the fund and may be prorated accordingly. In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request and/or unpaid balance will not carry over to the next year.

ARTICLE V

Creation of program fund.

The program fund from which payments shall be made under the terms of this article shall be created as follows:

As funds are available, the Town Council shall annually appropriate monies from the general fund or other sources to support this program.

Any surplus monies available after all payments have been made shall be carried forward within the fund to the next fiscal year.

ARTICLE VI

Timing of payments.

A person who qualifies for payment under this program shall be mailed a check for the benefit amount for which he/she is eligible under Section II (E) no later than 30 days from the date of Council approval of the applications for the year in which participation is sought.

ARTICLE VII

One applicant per household.

Only one qualifying applicant per household shall be entitled to payment under this program each year. Eligibility shall be determined based on total household income. The right to file an application under this article is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney in fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Assessor shall be disbursed to another member of the household as determined by the Assessor. If the applicant was the only member of a household, then no payment shall be made under this article.

Property Tax Relief Ordinance



Town of York, Maine

Most Recently Amended: May 18, 2019

Prior Dates of Amendment:

May 21, 2016

May 20, 2006

Date of Original Enactment: May 22, 2004

ENACTMENT BY THE LEGISLATIVE BODY

Date of the vote to amend this Ordinance: May 18, 2019

Certified by the Town Clerk:

May Anne Germanowski
(signature)

on 5/21/19.
(date)

Property Tax Relief Ordinance

(Adopted May 21, 2016 to
replace the Property Tax
Fairness Credit Relief for
Low Income Circuit Breaker
Program Ordinance)

1. Purpose

The purpose of this Ordinance is to provide relief to York residents who earn low to modest incomes and are taxpayers or renters of the Town of York.

2. Definitions

Homestead. “Homestead” shall have the same meaning as in 36 M.R.S.A. § 5219-KK (1) (C), as may be amended from time to time.

3. Program Description

Under this program, the Town of York will provide a supplemental benefit to individuals who qualify as York residents and beneficiaries of the Maine Property Tax Fairness Credit Program established by Chapter 822, section 5219-KK of Title 36, M.R.S.A. (the “State Program”). Eligible persons who received a tax credit under the State Program may present proof of such tax credit and eligibility to the Town of York’s General Assistance Coordinator or designee (the “Town”) and shall automatically qualify for a supplemental benefit from the Town of York. The amount of the supplemental benefit shall be a percentage of the State Program tax credit, as prescribed herein.

4. Eligible Persons

In order to be eligible for a supplemental benefit from the Town of York under this Ordinance, an applicant must demonstrate all of the following:

- a. The applicant has a homestead in the Town of York at the time of application.
- b. The applicant pays property taxes on a homestead to the Town of York or pays rent for the rental of a homestead.
- c. The applicant has received a tax credit under the State Program for the prior year’s income tax.

However, an owner of multiple residences in the Town of York shall not be eligible for a benefit.

5. Eligible Amounts

York residents who qualify for a tax credit under the State Program shall be eligible for a benefit of up to 50% of the tax credit calculated under the State Program; provided, the benefit to be received by any applicant shall not exceed the sum of \$450.00 per household per year.

6. Application and Benefit Payment

York residents may fill out a Town application between February 1 and June 15 relative to the prior year's income tax for a benefit as prescribed in this ordinance. Each form must be accompanied by satisfactory evidence of eligibility and tax credit payment by the State of Maine under the State Program for the prior year's income tax, including a statement regarding the amount of the State Program tax credit. The Town shall review and determine if the application is complete and accurate and if the applicant is eligible for a benefit.

If the Town determines that the applicant is eligible for a benefit, the Town shall then determine the total benefit amount based on the formula set forth in Section 5 of this ordinance, and the Town shall pay this amount within thirty (30) days upon approval of the application if sufficient funds remain in the budgetary account.

7. Benefit Limits

Approved benefits shall be distributed by the Town on a first-come first-served basis until the budgetary account is exhausted. Approved benefits that remain unpaid after exhaustion of the budgetary account will not carry over to the next year.

8. Failure to Appropriate Funds

Failure of the voters of York to appropriate funds to pay for this program shall constitute a suspension of the program for that year.

9. Effective Date

This Ordinance shall apply to benefit applications filed with the Town on or after February 1, 2017, for a benefit relative to the 2016 income tax year and subsequent income tax years.

Attachment 5

Saco's Volunteer Citizen Work-off Program Ordinance

City of Saco, ME
Thursday, June 6, 2019

Chapter 220. Volunteer Programs

Article I. Volunteer Citizen Work-off Program

[Adopted 12-15-2008; amended in its entirety 5-5-2014]

§ 220-1. Purpose.

Pursuant to 36 M.R.S.A. § 6232, Subsection 1-A, the City Council adopts the volunteer program that permits claimants who are at least 60 years of age to earn benefits up to a maximum of \$750 by volunteering to provide services to the City. The City Administrator or his/her designee shall establish a policy to implement the program.

§ 220-2. General guidelines.

- A. Participant must be age 60 on April 1 of the first year of eligibility.
- B. Participant must be a legal resident of the City of Saco.
- C. Participant must be the owner of record as of April 1 and reside in the dwelling the abatement will be applied to.
- D. Limited to one abatement per household, with respect to this program.
- E. Participant's household income cannot exceed the average median income for the State of Maine as published by the Federal Department of Housing and Urban Development.
- F. On or about April 1, the City Council will approve to the Assessor the amount of abatement funds to be drawn from the tax commitment overlay for the ensuing fiscal year.
- G. Volunteers are responsible for all federal or state tax reporting of tax abatement benefits that accrue to them from the program.

[1] *Editor's Note: Implementation Policy for the Volunteer Program is also included as an attachment to this program in the document entitled "Work Volunteer Program Guidelines."*

VOLUNTEER PROGRAMS

220 Attachment 1

City of Saco

Work Volunteer Program Guidelines [Amended 4-7-2014]

- A. Applicability. This policy shall apply to the administration of the City Code Chapter 220, Article I, Volunteer Citizen Work-off Program.
- B. Purpose. The purpose of these guidelines is to administer Chapter 220, Article I, of the City Code (see § 220-1). The City of Saco understands that the State of Maine sponsored tax rebate program may in certain instances still not grant the amount of property tax relief for families and individuals that may be necessary. Therefore, the City of Saco has by ordinance adopted the volunteer program. The program guidelines are as follows.
- C. Eligibility guidelines.
- (1) Participant must be age 60 on or April 1 of the first year of eligibility.
 - (2) Participant must be a legal resident of the City of Saco.
 - (3) Participant must be the owner of record as of April 1 and reside in the dwelling the abatement will be applied to.
 - (4) Limited to one abatement per household with respect to this program.
 - (5) Participant's household income cannot exceed the average median income for the State of Maine as published by the Federal Department of Housing and Urban Development (See source at end of document.), and the annual tax bill must be more than 4% of household income (based on previous year's gross income).
- ***Due to the limited resources available to the City of Saco, annual participation is not guaranteed. Annual participation will be based on the amount of funds certified to the Assessor by the City Council on an annual basis. Applicants will be selected on a needs basis.***
- D. Annual procedures.
- (1) The City Assessor is the Program Administrator. The Program Administrator sets the range of dates defining the program year.
 - (2) Upon the request of the Program Administrator, departments will request the number of volunteers they would like for the upcoming program year.
 - (3) On or about April 1, the City Council will certify to the Assessor the amount of funds to be added to the commitment overlay for the ensuing year.

SACO CODE

- (4) Application deadline is set by the Program Administrator.
 - (5) All work must be completed by the end of the program year.
 - (6) Applicant's certification for work will be done by the Human Resource Department as is typical for any part-time employee.
 - (7) The abatement will be distributed once at the conclusion of the participant's volunteer hours or at the end of the program year.
 - (8) An annual report will be submitted by the Program Administrator to the City Council on or about April 1.
- E. Volunteers are responsible for all federal or state tax reporting of tax abatement benefits that accrue to them from the program.
- F. Human resource procedures.
- (1) Taxpayers performing services in return for property tax reduction shall be considered "volunteers" and will be covered under the City's liability insurance. The City will therefore be liable for damages for injuries to a third party or if the City and/or City employee causes damage to the volunteer.
 - (2) As part of the application process the taxpayer/volunteer shall complete a form indicating information to conduct a background reference check: full name (including maiden name), date of birth, address and social security number.
 - (3) Volunteers shall not drive City vehicles.
 - (4) This shall not constitute regular or part-time employment with the City of Saco nor shall it constitute a contract.
 - (5) Volunteers shall complete a W-4 withholding form.

Tax Abatement Programs – Local Examples

Municipality	Eligible Age	Resident Tenure	Benefit	Notes
Biddeford (Draft 2011)	67	10 Yrs	\$750, limited by amount of money allocated and available in fund.	• Must have homestead for 1 year prior to application • Must be recipient of Maine Circuit Breaker Program (36 M.R.S. Chapter 907)
Cumberland	70	10 Yrs	Max \$750, calculated based on based and change per year or benefit as a percentage of benefit/income ratio. 10% or greater \$350; 8-10% \$250; 6-7% \$150; 5% or less \$50.	• Must have a homestead for 1 year prior to application • Must provide proof of rent or taxes paid for prior year • Payments contingent upon fund appropriation • 15% of rent is eligible threshold
Gorham	65	5 Yrs	Max \$500, calculated based on based and change per year or benefit as a percentage of benefit/income ratio. 10% or greater \$500; 8-10% \$350; 5-7% \$200.	• Must have a homestead for 1 year prior to application • Must provide proof of rent or taxes paid for prior year • Payments contingent upon fund appropriation • 15% of rent is eligible threshold
York	65	Not specified	50% of State Circuit Breaker Eligibility but no greater than \$450. Funds available on a first-come first-served basis until funds are expended.	• Must have a homestead at time of application • Must be recipient of Maine Circuit Breaker Program (36 M.R.S. Chapter 907) for prior year • Must provide proof of rent or taxes paid for prior year on homestead • Owner of multiple residences is not eligible • Payments contingent upon fund appropriation • 15% of rent is eligible threshold • State Property Tax Fairness Credit specifies age 65. York requires that applicant be a receipt of State Fairness Credit in order to be eligible

Tax Abatement Programs - Continued

Municipality	Eligible Age	Resident Tenure	Benefit	Notes
Saco (Volunteer Prog)	60	Not specified	Max \$750 after 75 volunteer hours	• Age 60 by April 1 for first year of eligibility • Legal resident of Saco • Owner of record and reside in dwelling • One abatement per household • Income less than average median income for Maine as published by HUD and tax bill must be greater than 4% of previous year's gross income • Applicants selected on a needs basis • Funds appropriated from tax commitment overlay • All work must be completed in the program year • HR involved in work certifications • Applicants responsible for federal and state tax reporting