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To: Current and Prospective Medical and Adult Use Cannabis Program Participants
From: Director John Hudak, Office of Cannabis Policy
Date: August 8, 2023
Subject: Enacted Cannabis-related Legislation – First Regular and Special Sessions of the 131st Legislature

This guidance is provided by the Office of Cannabis Policy (OCP) to make Maine Medical Use of Cannabis Program (MMCP) registrants and Adult Use Cannabis Program (AUCP) licensees aware of recent changes to the laws governing those programs as a result of the first regular and special sessions of the 131st Legislature.

This guidance is not intended to be a comprehensive summary of all legislative changes affecting the programs administered by OCP. Rather, it is being provided as a courtesy, should not be construed as legal advice, and should not be viewed as a substitute for program registrants and licensees consulting with qualified business consultant(s) and/or attorney(s) about the application of the requirements of the Maine Medical Use of Cannabis Act and/or the Cannabis Legalization Act to their unique situation.

Enacted Cannabis-related Legislation

An Act to Clarify State Policy Regarding Cannabis Paraphernalia in the Maine Medical Use of Cannabis Act and the Cannabis Legalization Act

PL 2023, ch. 6, Emergency (Signed March 15, 2023)

- Creates a definition for “cannabis paraphernalia” in the Cannabis Legalization Act and the Maine Medical Use of Cannabis Act.
- Differentiates cannabis paraphernalia from tobacco products under the laws governing tobacco.

An Act to Clarify the Requirements for Off-Premises Sales by Cannabis Store Licensees

PL 2023, ch. 408

- Creates new definitions for the terms “permitted premises for a specified event,” “specified event,” and “specified event permit”.
- Amends the application requirements for the issuance of a permit for cannabis stores to conduct sales at specified events.
- Amends the limitations and conditions for cannabis stores to conduct sales at events – including repealing the prohibition on the sale of “smokable” cannabis or cannabis products at specified events.
- Establishes criteria for suspension/revocation of permits to conduct sales at an event.

- Provides criteria for DAFS’ approval or denial of a permit application for cannabis stores to conduct sales at a specified event to allow denial of such applications for “good cause”.
- Amends the requirements that the Department issue guidance to cannabis stores.

An Act to Increase the Number of Mature Plants Allowed for the Home Cultivation of Cannabis

PL 2023, ch. 220

- Increases the number of mature adult use cannabis plants a person may grow for their personal use from 3 to 6.

An Act to Sustain the Medical Use of Cannabis Program

PL 2023, ch. 365

- Permits caregivers to show their department-issued registry identification card to law enforcement as proof of authorized conduct without a second form of identification and permits the inclusion of the cardholder’s photograph on their department-issued registry identification card.
- Requires the Department to notify a registrant within one day if it discovers the registrant or an assistant, employee or other agent of the registrant sold or transferred medical cannabis to a nonpatient and prescribes the administrative penalties for such a violation.
- Permits the Department to assess fines for misconduct by registrants or their assistants, employees or other authorized agents.
- Permits the Department to require the forfeiture and/or destruction of cannabis plants, cannabis or cannabis products if the Department issues a final order imposing an administrative penalty against a registrant.
- Permits the Department to accept donations for the payment of registration fees.

An Act to Maintain Legislative Oversight of the Maine Medical Use of Cannabis Program by Requiring Major Substantive Rulemaking

PL 2023, ch. 96

- Repeals the November 1, 2025, sunset of the requirement that medical cannabis program rules provisionally adopted by the Department to be submitted for legislative review and affirmative approval before final adoption for enactment into law.

An Act to Provide Equitable Tax Treatment to State-licensed Cannabis Businesses

P.L. 2023, ch. 444

- Extends business tax deductions and credits, already available to medical program participants, to adult use cannabis licensees.

An Act to Amend the Adult Use Cannabis Laws

PL 2023, ch. 396

- Permits tier 1, tier 2, and nursery cultivation facilities and products manufacturing facilities to conduct sales of cannabis and cannabis products to consumers by delivery (except that nursery cultivation facilities may sell only immature cannabis plants, seedlings, cannabis seeds and agricultural or gardening supplies relating to the cultivation of cannabis).

- Permits the delivery of cannabis and cannabis products by authorized licensees to consumers at hotels or other private businesses, provided that the delivering licensee has obtained written consent from the owner or other authorized agent of the business to conduct such deliveries.
- Permits the return of cannabis or cannabis products from a licensee to the licensee that transferred the cannabis or cannabis products to the returning licensee and provides for the testing of such returned cannabis or cannabis products.
- Requires the department to specify in rule limitations on signs, advertising and marketing necessary to limit the appeal of such materials to individuals under 21 years of age.
- Permits the use of vehicle wraps by licensees.
- Increases the per package limit for edible cannabis products from 100 mg per package to 200 mg per package and increases the possession limit for cannabis concentrates from 5 grams to 10 grams.

Implementation Timelines & Effective Dates

Because this bill was designated as emergency legislation, in accordance with Article IV, Part 3, § 16 of the Constitution of Maine, *An Act to Clarify State Policy Regarding Cannabis Paraphernalia in the Maine Medical Use of Cannabis Act and the Cannabis Legalization Act* (Emergency, **effective March 15, 2023**) took effect immediately upon the Governor’s signature; and has already been implemented by the Department of Health and Human Services (DHHS). Interested program participants can review that communication from DHHS [here](#).

In accordance with Article IV, Part 3, § 16 of the Constitution of Maine, the following laws take effect 90 days after the adjournment date of the 1st Special Session of the 131st Legislature. That date is October 25, 2023. In some cases, as detailed below, some provisions of these laws require agency rulemaking. The timeline for those is dependent on the legislature’s choices over the rulemaking processes.

- *An Act to Increase the Number of Mature Plants Allowed for the Home Cultivation of Cannabis* will permit individuals engaged in the home cultivation of adult use cannabis to cultivate up to 6 mature cannabis plants (an increase from the 3 mature cannabis plants currently permitted).
- *An Act to Sustain the Medical Use of Cannabis Program* will permit the Department to accept donations to cover the cost of registration fees and the use of a photograph on a registry identification card issued to a registered caregiver. The Department will issue additional guidance regarding the application requirements for a caregiver registry identification card with a photograph in the coming weeks; however, all applications for a caregiver registry identification card received by OCP on or after October 25, 2023, must be accompanied by a compliant photograph of the applicant. Effective October 25, 2023, the Department will also begin providing registrants notice within 1 business day when it discovers that a registrant or their assistant, employee or other authorized agent of a registrant makes a sale or transfer of cannabis plants, cannabis or cannabis products for medical use to an individual who is not authorized to possess medical cannabis. All other provisions of P.L. 2023, ch. 365 require major substantive rulemaking to implement.

While OCP has begun that process, the Legislature’s decision to require such regulatory changes to be considered “major substantive” means that those changes will not become effective before late summer or fall of 2024 and only after legislative approval.

- *An Act to Amend the Adult Use Cannabis Laws* includes provisions permitting licensed adult use cannabis stores to conduct deliveries of cannabis and cannabis products to a hotel or other private business with the express written permission of the business owner. In the coming months, OCP will publish the business owner consent form that must be retained by the cannabis store licensee in order to demonstrate proof of authorization to deliver to that business. That law also permits adult use licensees to use vehicle wraps as part of their advertising and marketing, and it increases the allowable potency of a package of edible cannabis products from 100 mg/package to 200 mg/package and permits an individual to possess up to 10 grams of concentrate at a time, up from 5 grams of concentrate under existing laws.

All other provisions of the laws summarized in this document will require the Department to engage in major substantive rulemaking. It is OCP’s intention to complete that rulemaking prior to the legislative acceptance period in January 2024, at which point any provisionally adopted rules will be subject to legislative review and approval prior to final adoption by OCP.