

CANNABIS USE VIOLATIONS AND HIGHWAY SAFETY

Since the legalization of recreational marijuana pursuant to the *Maine Marijuana Legalization Act*¹ of 2016, cannabis use has evolved rapidly. Besides the obvious increase in social acceptance, availability, and public use, the cannabis manufacturing industry has metamorphosed the once natural plant into a wide variety of products that have multiple ingestion methods, sky-high levels of THC, and a drug purity not previously seen.

Cannabis connoisseurs can get pre-rolls, edibles, concentrates, creams, tinctures, various beverages, and more. Professional dispensaries now genetically modify and process the flower so that the cannabinoids inside, especially THC, better facilitate the experiences that users want, and prevent much of what they don't want – things the *Woodstock* generation could only dream of!

Likewise, the laws regulating this new influx of products have been in a state of flux since 2016. To get the full picture of cannabis regulatory schemes you'd have to look in three different places to start: (1) The Maine Criminal Code. 17-A M.R.S.; (2) Adult Use Cannabis 28-B M.R.S.; (3) and the Maine Medical Use of Cannabis Act 22 M.R.S. Chapter 588-C. And even if these laws, are mastered by police officers they will likely change quickly. For example, in the last legislative session, there were scores of bills attempting to add to, amend, or delete, the laws regarding cannabis in Maine.

Combine this process with the effects of Covid-19 and various social factors since 2020 that have hampered law enforcement workload and recruiting efforts, and the result is a complicated regulatory scheme of a drug dangerous to highway safety that is getting less enforcement than ever before.

This article is a deep dive into all the laws surrounding cannabis use in Maine. While these laws are complicated and disorganized, there are a few fundamental concepts regarding cannabis use, possession, transfer, and transportation that law enforcement can depend upon to use for any traffic safety violation that involves cannabis. Whether it's for establishing reasonable and articulable suspicion (RAS) for a traffic stop or building probable cause (PC) for an arrest, this article reviews those, and other related concepts, to suggest common cannabis use violations that every police officer needs to know.

Let's start with the basics:

¹ 7 M.R.S. c.417 (REPEALED). Replaced in 2017 by 28-B M.R.S. "The Cannabis Legalization Act."

I. ANY PERSON 21 YEARS OR OLDER WHO IS AN OPERATOR (OR A PASSENGER) OF A MOTOR VEHICLE CANNOT CONSUME CANNABIS OR CANNABIS PRODUCTS.

This is one of the few straightforward highway safety related cannabis laws with no exceptions. Also, judging by the number of times one detects the odor of burnt cannabis while driving (even with windows closed) on Maine roads, it is likely violated often.

In plain language, if an officer develops RAS of a person² 21 years old³ or older consuming⁴ cannabis or a cannabis product⁵ in a motor vehicle on a public way⁶, the officer may stop that motor vehicle.⁷ How might an officer develop such RAS? In the same way that an officer could build RAS that an operator or a passenger of a motor vehicle on a public way is drinking alcohol or consuming another drug.

There are many reasonable scenarios of what might serve as RAS of a person using cannabis or a cannabis product while driving. To develop RAS officers⁸ may consider their experience, training, and knowledge about the cannabis industry and its current trends when assessing the reasonableness of the suspicion built.

For example, an officer who is following a car from which a strong smell of burnt marijuana is emanating (and there's no one else close on the road at that time) probably has RAS to make a stop. An officer might see a person vaping, observe someone placing a tincture under their tongue, or perhaps even notice a cannabis infusion elixir being consumed.

² Including Qualifying Patients.

³ For the purposes of this article the following definitions apply: (1) **Juvenile**: a person less than 18 years old; (2) **Minor**: a person 18,19 or 20 years of age; (3) **Adult**: A person 21 or older; and (4) **Qualifying Patient (QP)**: a person who has been a resident of the State for at least 30 days and who possesses a valid written certification for medical use of cannabis in accordance with 22 M.R.S. §2423-B.

⁴ "A person may consume a substance by eating, drinking, inhaling, or injecting it." *State v. Atkins*, 2015 ME 162 ¶ 1 n.

⁵ 28-B M.R.S. § 1501(2)(B) 1.

⁶ This statute requires the vehicle to be located on a public way at the time of the violation.

⁷ *Ibid* at n.5.

⁸ See *United States v. Ramos* F. 3d 60 (1st Cir. 2010) held that "weight must be given to police officers 'training and experience. Police officer's subjective inferences are relevant to the extent they reflect officer's experience and expertise."; and *United States v. Brown*, 500 F.3d 48 (1st. Cir. 2007) which said when talking about reasonable suspicion: "In this process, the circumstances underlying the stop must be seen and weighed not in the terms of library analysis by scholars, but as understood by those versed in the field of law enforcement."

Since cannabis is an impairing substance⁹ consuming cannabis while operating a motor vehicle likely carries the same weight of suspicion as drinking while operating a motor vehicle. Notwithstanding that both are actual violations, at some point, the consumption of the product becomes impairing. After stopping the vehicle upon RAS, officers may investigate and ascertain if further enforcement is needed.

Now, should the operator be a person under 21, things become more complicated:

II. AN OPERATOR OF A MOTOR VEHICLE UNDER 21 AND NOT A QUALIFYING PATIENT CANNOT KNOWINGLY POSSESS, TRANSPORT (OR PERMIT TO BE TRANSPORTED), OR CONSUME CANNABIS IN A MOTOR VEHICLE UNDER THEIR CONTROL.¹⁰

HOWEVER, THERE IS NO RESTRICTION AGAINST A QUALIFYING PATIENT UNDER 21 FROM POSSESSING, TRANSPORTING (OR PERMITTING SUCH), AND CONSUMING CANNABIS IN A MOTOR VEHICLE THAT IS OPERATING ON A PUBLIC WAY EXCEPT THAT A QUALIFYING PATIENT LESS THAN 18 YEARS OF AGE CANNOT SMOKE IT.¹¹

Read that again. The first point is simple: for a person who is under 21 years old, and *not* a QP, everything having to do with possession, transportation, or use while operating a motor vehicle is simple – they can't do it.

However, a QP who is less than 21 years old *may* possess, transport, and use¹² cannabis while operating a motor vehicle. Yes, you read that correctly. The age group of drivers who are statistically¹³ most at risk for crashes, injuries, and deaths via motor vehicles, are permitted

⁹ See also: *State v. Worster*, 611 A.2d 979 (Me. 1992); Rebecca L. Hartman, Jack E. Richman, Charles E. Hayes, Marilyn A. Huestis. *Drug Recognition Expert (DRE) examination characteristics of cannabis impairment*. Accident Analysis & Prevention. Vol. 92. 2016. Pages 219-229; The National Traffic Law Center. *The Investigation and Prosecution of Cannabis-Impaired Driving Cases*, 2019.

¹⁰ 22 M.R.S. §2383(1-A).

¹¹ As dangerous as it sounds, the law is currently written to allow QPs less than 21 years old to possess, transport, and consume cannabis in a motor vehicle on a public way as either a passenger or the driver. If the statutes intent is to allow those under 21 easy access to their "medicine" in the event of a need that can't wait for them to pull over. Then why can't QPs 21 and over consume cannabis in a motor vehicle on a public way?

¹² A QP, who is a juvenile, may not consume cannabis by smoking it. 22 M.R.S. §2423-A(1) M.

¹³ The risk of motor vehicle crashes is higher among teens aged 16–19 than among any other age group. In fact, per mile driven, teen drivers in this age group are nearly three times as likely as drivers aged 20 or older to be in a fatal crash. US Centers for Disease Control, *Teen Drivers: Get the Facts*, CDCTransportation.org (Oct. 12, 2021), <http://Teen Drivers: Get the Facts, Injury Center>
https://cdctransportation.org/www.cdc.gov/transportationsafety/teen_drivers/teendrivers_factsheet.html.

under Maine law to possess, transport, and use an impairing substance while operating a motor vehicle.

Possession, transportation, and consumption relevant to a motor vehicle are similar concepts, but each has unique factors officers should consider when taking enforcement action.

POSSESSION

A person under 21 years old, who is the operator of a motor vehicle, and not a QP, cannot possess cannabis. A law enforcement officer who has RAS to believe that a person under 21 does possess cannabis in a motor vehicle on a public way may stop the vehicle, and if the officer develops probable cause to show possession¹⁴, the operator can be charged with (among other things) a civil violation. To wit: 22 M.R.S. §2382 Possession. This possession statute results in a fine up to 2 ½ ounces, after which possession becomes criminal.¹⁵ Moreover, should the substance in question be cannabis concentrate, any amount possession is criminal. See Section III below for the relevant discussion of the concept.

TRANSPORTATION

Although it seems like transportation should be a 29-A violation, *Illegal Transportation of Drugs by a Minor* is actually found in Title 22 and although it is a civil infraction, it carries with it a mandatory license suspension that gets progressively longer with each subsequent conviction. For this violation, the officer must show that a juvenile or minor operator of a motor vehicle, who is not a QP, knowingly transported (or permitted to be transported) a drug in the vehicle the operator had control over.

There are two elements necessary to prove this offense. First, the officer must show the operator was a juvenile or minor and not a QP. Additionally, the officers must show that the vehicle was under that person's control. In many cases, this may be as simple as stopping the vehicle for an unrelated offense and reviewing the operator's license and registration. In other

¹⁴ Possession can be direct or constructive. "Constructive possession is established by showing that the defendant had "dominion and control" over particular property or goods. *State v. Ketchum*, 1997 ME 93, ¶ 13, 694 A.2d 916 (quotation marks omitted). Constructive possession also "may be joint with one or more persons." *State v. Gellers*, 282 A.2d 173, 179 (Me. 1971)" *State v. Anderson*. 2016 ME 183

¹⁵ 17-A M.R.S. §1107(1) F.

cases, the officer may suspect cannabis is in a vehicle, notice the *youthful appearance*¹⁶ of the operator, and stop the vehicle on suspicion of a violation of this section.

Second, if cannabis is located, officers must address the issue of “knowingly.” Knowingly¹⁷ is a high burden but can be shown through competent questioning and corroborating circumstantial evidence. In other words, don’t immediately accept “these aren’t my pants” for an answer. Keep digging.

CONSUMPTION

Logically, since a person under 21, who not a QP, is not allowed to possess or transport cannabis under Maine law while in a motor vehicle on a public way - they certainly can’t consume it. Therefore, though there is no specific statute that forbids this consumption in a motor vehicle, one cannot consume cannabis without violating either the transportation or the possession statute.

However, as mentioned in the introductory paragraph to this section, there are no restrictions against a QP from possession, transportation, or consumption in a motor vehicle on a public way – with the exception that Title 22 does not allow a Juvenile QP to consume cannabis by smoking.¹⁸

Lastly, the statute forbids simultaneously charging a minor with a violation of the transportation section and any possession violation for cannabis¹⁹ or any other drug.²⁰ Strategically, officers need to weigh the difference between writing for the *transportation* (which provides for a mandatory loss of license) or for the *possession* which in some cases results in a fine, but in other cases can be a criminal violation.

After the stop, an officer can take the opportunity provided by the detention to investigate the presence of cannabis in the vehicle while adhering to the scope of the stop. Officers should note that qualified patients, even as minors, are allowed to possess and transport cannabis provided

¹⁶ In *State v. Blackburn*, 2008 ME 178, the Law Court allowed the officer’s observation of people who “appeared to be teenagers” to be used as part of the probable cause needed to conduct a warrantless entry of a residence where a suspected underage drinking party was going on.

¹⁷ 17-A M.R.S. 35(2). Merely finding cannabis in a minor’s vehicle would not be enough. Officers need PC that the minor intentionally, or knowingly possessed – whether actively or constructively – what the minor knew or believed to be cannabis in a motor vehicle under their control. *State v. Anderson*, 2016 MR 183 ¶[31].

¹⁸ *Ibid* at 12.

¹⁹ 22 M.R.S. Sec. 2882 Cannabis possession by a person under 21 years of age.

²⁰ 22 M.R.S. Sec. 2389 (6).

it is for their medical use. Moreover, they can consume while operating a motor vehicle, until the turn 21 years old.²¹

Lastly, officers enforcing these laws may encounter *Caregivers*. There are Caregivers who are not QPs and are authorized under Title 22, Section 2423-A, paragraph 2 to possess and transport cannabis. They can open stores, cultivate, and hire employees (even ones aged 18-20 if they are family members). However, all Caregivers must be 21 or older and thus fall under the Adult Use rules for any consumption. They are prohibited from consuming any cannabis in a motor vehicle.²²

III. CANNABIS AND CANNABIS CONCENTRATE ARE TREATED DIFFERENTLY UNDER MAINE LAW: IF A PERSON UNDER 21 IS ILLEGALLY POSSESSING CANNABIS, IT'S A CIVIL INFRACTION. HOWEVER, IF A PERSON UNDER 21 IS ILLEGALLY POSSESSING CANNABIS CONCENTRATE, THEN IT IS A CRIME.

In cases where the vehicle stop includes a juvenile or minor in possession of cannabis, officers have the discretion to charge with possession rather than transportation. In these situations, if the type of cannabis found is not cannabis concentrate but merely the leaves, stems, flowers, and seeds of all species of the plant genus cannabis, whether growing or not; then it is a civil violation subject to only a fine²³ if the amount possessed is less than 2.5 ounces. If, however, the type of cannabis is cannabis concentrate, then a minor would be in possession of schedule X drug which is a Class D crime.

We know this because we know that cannabis concentrate is made by extracting the resin from the cannabis flower²⁴ and this does not fit the definition of Marijuana possession by a minor.²⁵ Look closely at the definitions in 17-A Chapter 45 (Drugs) for support:

Title 17-A, Sec. 1101, paragraph 1, of the Maine Revised Statutes clearly defines marijuana as including: "the leaves, stems, flowers, and seeds of all species of the plant genus Cannabis

²¹ While QPs under the age of 18 are not permitted to smoke harvested cannabis under Title 22 there are no restrictions on consuming cannabis in any other way; However, there is no restriction on QPs who are 18, 19 and 20 years of age from consuming cannabis in any form while operating a motor vehicle. Persons 21 years of age or older, may not consume cannabis while operating a motor vehicle. 28-B 1501(2) B.

²² 28-B M.R.S. §1501(2)B(1).

²³ 22 M.R.S. §2383 (1-A) Cannabis possession by a person under 21 years of age.

²⁴ NIDA. "Cannabis (Marijuana) Concentrates DrugFacts." *National Institute on Drug Abuse*, 25 Jun. 2020, <https://nida.nih.gov/publications/drugfacts/cannabis-marijuana-concentrates> Accessed 25 Jun. 2024.

²⁵ Ibid at n.21.

whether growing or not. Additionally, what is also very important is what the definition says marijuana is **not**:

[Marijuana] “does not include resin extracted from any part of such plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin including hashish and does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, fiber, oil or cake or the sterilized seed of such plant that is incapable of germination. ” 17-A M.R.S. Sec. 1101(1)

From this definition in Title 17-A, we know that since cannabis concentrate is created by extracting the resin of the flowers of the cannabis plant, it is not marijuana for purposes of any criminal prosecution. Furthermore, also found in this same section is a definition for “Hashish” which is described as being a product of extraction.²⁶ Therefore, cannabis concentrate is Hashish which is a Schedule X drug according to Chapter 45. Possession of a Schedule X drug, absent any other circumstances, is a class D crime.

An important point for investigating suspected cannabis use, possession or transportation in a motor vehicle is that cannabis concentrates may be consumed by using vape pens.²⁷ Therefore, officers should investigate what was being consumed using a vape pen. If it is cannabis, then the illegal possession or transportation is a civil violation. However, if the product being consumed through the vape pen is Hashish, then illegal possession is an arrestable crime. Understanding vape pens and cartridges that are available on the market today will assist officers in making the determination of what is being used.²⁸

IV. IF AN OPERATOR OF A MOTOR VEHICLE IS *SMOKING* CANNABIS OR A CANNABIS PRODUCT AND THE OPERATOR OR ANY PASSENGER(S) IS UNDER 18, THEN THE OPERATOR IS COMMITTING A TRAFFIC INFRACTION.²⁹

For this violation, an officer must have RAS that a person in a vehicle is smoking and that there is at least one person in the vehicle under 18. Gathering RAS should be straightforward. An

²⁶ “Hashish: includes the resin extracted from any part of the cannabis plant and every compound, manufacture, salt, derivative, mixture of preparation from such resin...”

²⁷ *What are cannabis concentrates and how do you consume them?*, Weed Maps (Mar. 30, 2023), <https://weedmaps.com/learn/products-and-how-to-consume/cannabis-concentrates>.

²⁸ *Weed Carts: A Complete Guide to Vape Cartridges*, Herb (July 16, 2024), <https://herb.co/guides/whats-in-your-pen-choosing-your-vape-cart-wisely>.

²⁹ 29-A M.R.S. §2120 Smoking in vehicles when minor is present. Note that 29-A M.R.S. §101 defines a “minor” as a person who has not yet reached the age of 18.

officer could merely witness a person smoking in the car and witness a person in the vehicle with a youthful appearance. Ideally, the smell of burnt marijuana coming from the vehicle with no other apparent source would be good corroborating evidence. Since it's a traffic infraction, officers may identify the operator and get an age. However, there is a statutory prohibition against searching the vehicle based solely on this violation.³⁰

The use of a vape likely does not violate this section since vapes do not use combustion.³¹ However, combining this statute and the Personal Adult Use of Cannabis and Cannabis Products found in 28-B M.R.S. § 1501(2)(B) 1, means that no one under the age of 18 or over the age of 20 can smoke cannabis in a motor vehicle. Conversely, it also means that there is no restriction against a QP who is 18, 19, or 20 years of age, from smoking cannabis in a motor vehicle.

V. QUALIFYING PATIENTS CANNOT FURNISH TO PERSON WHO IS NOT A QUALIFYING PATIENT. FURNISHING TO A MINOR IS A CRIME AND IF IT IS A JUVENILE, IT IS A FELONY.

Qualifying Patients are only allowed to engage in the authorized conduct listed in Title 22, Sec. 2423-A, paragraph 1 of the Maine Revised Statutes. Subparagraph D clearly authorizes furnishing only to another QP. Therefore, furnishing to anyone else is a violation of Title 17-A, Sec. 1106 of the Maine Revised Statutes.

Furthermore, anyone who furnishes cannabis or marijuana to a minor (who is not a QP) commits a misdemeanor crime; if that furnishing occurs within 1,000 feet of a school, on a school bus, or the recipient is under 18, then it's a Class C felony.³²

It is easy to imagine that SROs may encounter this sort of activity. Once a person is 18, they can become a QP very easily. If still in school, it's not unlikely that they may share with all their non-QP friends. Furthermore, with all the different varieties of cannabis and cannabis products such as vapes, edibles, and drinks that are popular in schools, this is a violation that can easily occur often.

VI. ANY OFFICER WHO HAS THE REQUISITE PC CAN ARREST A PERSON FOR CANNABIS IMPAIRED DRIVING

³⁰ Ibid at 23.

³¹ NIDA. "Vaping Devices (Electronic Cigarettes) DrugFacts." *National Institute on Drug Abuse*, 8 Jan. 2020, <https://nida.nih.gov/publications/drugfacts/vaping-devices-electronic-cigarettes> Accessed 25 Jun. 2024.

³² See: 17-A §1105-C.

It's a crime to drive while high and officers don't need any special training or certification(s) to investigate or make arrests on probable cause for driving under the influence of cannabis.

No discussion is complete on cannabis use violations and Highway Safety without talking about OUI. Both ARIDE Certified officers and Drug Recognition Experts have focused drug impairment training intended to enhance their knowledge, skills, and abilities to investigate impaired driving cases involving drugs. These officers typically provide the best evidence and should always be the preferred "go-to" resource in these kinds of cases. Unfortunately, there are not enough of them to go around.³³ However, every Maine law enforcement officer can investigate a cannabis impaired driving case, even when a DRE or ARIDE trained officer is not available.

Any Maine law enforcement officer, upon probable cause, may arrest for OUI under Title 29-A Sec. 2411 of the Maine Revised Statutes, which makes it a crime to: (1) operate³⁴ a motor vehicle while: (2) under the influence of *intoxicants*.³⁵

The term "under the influence of intoxicants" has special meaning. The definition section of Title 29-A Section 2401, paragraph 13 of the Maine Revised Statutes³⁶ reads that "under the influence of intoxicants" means: being under the influence of alcohol, a drug other than alcohol, a combination of drugs, or a combination of alcohol and drugs. Therefore, the second element of the OUI crime is fulfilled whether the suspect is under the influence of alcohol or drugs or some combination. For example: alcohol; cannabis; or cannabis and meth; or cannabis and alcohol. In other words, the source of the impairment doesn't change the crime. A person operating drunk has committed the same crime as a person operating high.

All of this means that should a non-DRE or non-ARIDE trained officer encounter a cannabis impaired driver, the officer may investigate and process the case just like any other OUI. This includes (assuming the element of operation is satisfied) building PC through extensive roadside

³³ Since the legalization of recreational cannabis in 2017, the number of DREs in Maine has not increased significantly.

³⁴ "Operation" is a straight-forward concept. However, there are infrequent circumstances in which proving operation needs special considerations that are beyond the scope of this article. For a discussion about "operation" and how it relates to proving impaired driving in Maine: See Scot Mattox et al., *The Maine OUI Guide* §2(D) p.16 (3rd ed., 2023). It can be downloaded [here](#).

³⁵ *State v. Atkins*, 2015 ME 162 ¶[1] is instructive on this point:

"To convict a person of operating under the influence (OUI) 29-A M.R.S. § 2411(1-A) (2014), the State must prove, beyond a reasonable doubt, two elements: (1) the person operated a motor vehicle, and (2) at the time of operation, the person was under the influence of an intoxicant—alcohol, drugs, or another intoxicant—or a combination of intoxicants. See also *State v. Soucy*, 2012 ME 16, ¶ 11, 36 A.3d 910. A person is under the influence if the person's physical or mental faculties are impaired however slightly or to any extent by the substance or substances that the person consumed.1 Id.; *State v. Worster*, 611 A.2d 979, 980-81 (Me. 1992)."

³⁶ This section governs all definitions applicable to Chapter 23 which includes the OUI Law.

questioning, the use of the SFSTs, and (should PC be reached) ordering the person to take test(s) under Maine's Implied Consent law.³⁷

In 2015, the Maine Law Court decided *State v. Atkins*, 2015 ME 162, which spoke directly to this point. In *Atkins*, the court decided that Maine's drug recognition expert laws do not limit the observations and testimony that a *non-DRE* (or even a layperson) can make about their observations of a driver's impairment and how the driver performed during field sobriety testing.³⁸ Thus, while a DRE's evaluation is the best evidence, a non-DRE officer's evaluation is still admissible.³⁹

In the final analysis, law enforcement officers facing situations where a person is driving under the influence of cannabis and there is no DRE or ARIDE trained officer available to investigate the case, should proceed much like any other OUI. Keep in mind that a blood test will produce the best evidence and should be obtained⁴⁰ if and when constitutionally possible. Furthermore, because there is no "per se" limit of Cannabis impairment in breath or blood testing officers must prove impairment by means other than the chemical test. This means asking meaningful questions about consumption, the nature of the substance consumed, the timeline, and how it made the driver feel. All this information will help give the testimony more weight in court and perhaps better help the jury see a true picture of what occurred.

VII. CONCLUSION

Understanding and applying Maine cannabis laws when appropriate during traffic enforcement is beneficial to both to Maine's highway safety and Maine's legal cannabis regulated market. Police officers armed with additional enforcement tools have more options to ferret out the dangers on the road and serious criminal drug activity.

For Highway Safety purposes, we know that cannabis is an impairing substance and for some people, any use may create lapses in a person's ability to divide their attention. This brings additional crash risk not only for the operator but also for everyone else on the road. Impartial and regular enforcement of these laws creates deterrence and a safer driving experience for us all.

³⁷ 29-A M.R.S. § 2121, which reads in pertinent part: if there is probable cause to believe a person has operated a motor vehicle while under the influence of intoxicants, that person shall submit to and complete a test to determine and alcohol level and the presence of a drug or drug metabolite by analysis of blood, breath or urine.

³⁸ *Ibid* at ¶ [16].

³⁹ *Ibid* at ¶[17].

⁴⁰ Blood tests must always be obtained in a Constitutionally acceptable manner: See Scot Mattox et al., *The Maine OUI Guide* §3(b) p.35 (3rd ed., 2023). It can be downloaded [here](#).

Additionally, enforcing violations of Maine’s Adult Use and Medical Use cannabis laws enhances the credibility of the regulated market. It helps to assure fairer conduct between those cannabis licensees who are doing things in a reasonable and safe manner so as not to cause harm to innocent bystanders and those who are reckless and dangerous.

Maines law enforcement community should use these laws to its advantage when addressing all types of crime and keeping our State safe. Accompanying this article is a visual chart designed to complement the concepts talked about here. you can view this on the Maine Bureau of Highway Safety’s website by clicking on the link below and scroll down to “Resource Materials.”⁴¹

[Maine Traffic Safety Resource Prosecutors](#)

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Maine Cannabis Laws Related to Highway Safety

Underlying Statutes	M.R.S.: 17-A; 22; 29-A	Maine Medical Use of Cannabis Act 22 M.R.S. Chapter 558-C	M.R.S.: 17-A; 22; 29-A	Maine Medical Use of Cannabis Act 22 M.R.S. Chapter 558-C	Title 28-B, Chapter 3: Personal Adult Use Cannabis+++	Maine Medical Use of Cannabis Act 22 M.R.S. Chapter 558-C
Cannabis Status	Person under 18	Qualifying Patient (QP) under 18	Person 18, 19, or 20	QP 18, 19, or 20	Person 21 & Over	QP 21 & Over
May Consume Cannabis?	There is no law prohibiting a person under 18 from consuming cannabis.	YES But cannot smoke (or vape): 22 M.R.S. §2423-A(1) M.++	There is no law prohibiting a person, 18, 19, or 20 years of age from consuming cannabis.	YES 22 M.R.S. §2423-A(1) M.	YES But not in public, and not in a motor vehicle on a public way: 28-B M.R.S. § 1501(2) B.	YES But not in public, and not in a motor vehicle on a public way: 28-B M.R.S. § 1501(2) B.
May Possess Cannabis?	NO 22 M.R.S. §2383 (under 2 1/2 oz.). Over 2 1/2 oz. is criminal: 17-A M.R.S. §1107-A. <i>Note</i> : if it's cannabis concentrate (made from the resin of the cannabis plant) it's treated as Hashish under 17-A.*	YES 22 M.R.S. §2423-A(1) M.	NO 22 M.R.S. §2383 (under 2 1/2 oz.). Over 2 1/2 oz. is criminal: 17-A M.R.S. §1107-A. <i>Note</i> : if it's cannabis concentrate (made from the resin of the cannabis plant) it's treated as Hashish under 17-A.*	YES 22 M.R.S. §2423-A(1) A.	YES 28-B M.R.S. § 1501(1) B. <i>Note</i> : Possession amounts between Adult Use and Medical Use can vary significantly.	YES 22 M.R.S. §2423-A(1) A.
May Furnish Cannabis to Another Person?	NO 17-A M.R.S. §1106; 22 M.R.S. §2383 (under 2 1/2 oz.). Over 2 1/2 oz. is criminal: 17-A M.R.S. §1107-A. <i>Note</i> : if it's cannabis concentrate (made from the resin of the cannabis plant) it's treated as Hashish under 17-A.* <i>Also Note</i> : furnishing any form of cannabis to a person under 18 who is not a QP is a Class C felony. 17-A M.R.S. §1105-C.	YES As long as: (1) only to another QP; (2) only up to possession limits; and (3) no remuneration is allowed. 22 M.R.S. §2423-A(1) D. <i>Note</i> : furnishing any form of cannabis to a person under 18 who is not a QP is a Class C felony. 17-A M.R.S. §1105-C.	NO 17-A M.R.S. §1106; 22 M.R.S. §2383 (under 2 1/2 oz.). Over 2 1/2 oz. is criminal: 17-A M.R.S. §1107-A. <i>Note</i> : if it's cannabis concentrate (made from the resin of the cannabis plant) it's treated as Hashish under 17-A.*	YES As long as: (1) only to another QP; (2) only up to possession limits; and (3) no remuneration is allowed. 22 M.R.S. §2423-A(1) D. <i>Note</i> : furnishing any form of cannabis to a person under 18 who is not a QP is a Class C felony. 17-A M.R.S. §1105-C.	YES Provided that: (1) it's to another person 21 & over; (2) without remuneration; and (3) within possession limits. 28-B M.R.S. §1501(1). <i>Note</i> : furnishing any form of cannabis to a person under 18 who is not a QP is a Class C felony. 17-A M.R.S. §1105-C.	YES As long as: (1) only to another QP; (2) only up to possession limits; and (3) no remuneration is allowed. 22 M.R.S. §2423-A(1) D. <i>Note</i> : furnishing any form of cannabis to a person under 18 who is not a QP is a Class C felony. 17-A M.R.S. §1105-C.
May Transport Cannabis?	NO <i>Illegal Transportation of Drugs by a Minor.</i> 22 M.R.S. §2389 <i>OR Possession</i> : 22 M.R.S. §2383 (under 2 1/2 oz.). Over 2 1/2 oz. is criminal: 17-A M.R.S. §1107-A.** <i>Note</i> : if it's cannabis concentrate (made from the resin of the cannabis plant) it's treated as Hashish under 17-A.*	YES 22 M.R.S. §2423-A(1) L. Provided the transportation is for that QPs medical use of cannabis in accordance to the medical use laws.	NO <i>Illegal Transportation of Drugs by a Minor.</i> 22 M.R.S. §2389 <i>OR Possession</i> : 22 M.R.S. §2383 (under 2 1/2 oz.). Over 2 1/2 oz. is criminal: 17-A M.R.S. §1107-A.** <i>Note</i> : if it's cannabis concentrate (made from the resin of the cannabis plant) it's treated as Hashish under 17-A.*	YES 22 M.R.S. §2423-A(1) L. Provided the transportation is for that QPs medical use of cannabis in accordance to the medical use laws.	YES Up to possession amounts. 28-B M.R.S. § 1501(1) B.	YES 22 M.R.S. §2423-A(1) L. Provided the transportation is for that QPs medical use of cannabis in accordance to the medical use laws.
May Use Cannabis While Operating a MV?	NO <i>Illegal Transportation of Drugs by a Minor.</i> 22 M.R.S. §2389 <i>OR Possession</i> : 22 M.R.S. §2383 (under 2 1/2 oz.). Over 2 1/2 oz. is criminal: 17-A M.R.S. §1107-A.** <i>AND/OR Smoking in Vehicles When a Minor is Present.</i> 29-A M.R.S. §2120*** <i>Note</i> : if it's cannabis concentrate (made from the resin of the cannabis plant) it's treated as Hashish under 17-A.*	A QP under 18 may not smoke or vape "harvested cannabis" 22 M.R.S. §2423-A(1) M. <i>Note</i> : "Harvested Cannabis" includes Cannabis Concentrate and Cannabis Products. However, there are no statutory prohibitions to prevent a QP under 18 from consuming cannabis in a way other than smoking (e.g., eating or drinking) while operating a motor vehicle.	NO <i>Illegal Transportation of Drugs by a Minor.</i> 22 M.R.S. §2389 <i>OR Possession</i> : 22 M.R.S. §2383 (under 2 1/2 oz.). Over 2 1/2 oz. is criminal: 17-A M.R.S. §1107-A.* <i>Note</i> : if it's cannabis concentrate (made from the resin of the cannabis plant) it's treated as Hashish under 17-A.*	There are no statutory prohibitions to prevent a QP who is 18, 19, or 20 years old from consuming cannabis while operating, or a being passenger in, a motor vehicle.	NO 28-B M.R.S. § 1501(2) B. <i>Note</i> : if any passenger in the MV is under 18, and the use consisted of smoking, 29-A M.R.S. §2120 would still apply as well.	NO 28-B M.R.S. § 1501(2) B.
Operating a MV Under the Influence	NO 29-A M.R.S. 2411.	NO 29-A M.R.S. 2411.	NO 29-A M.R.S. 2411.	NO 29-A M.R.S. 2411.	NO 29-A M.R.S. 2411.	NO 29-A M.R.S. 2411.
Is There an Administrative Suspension for OUI Drugs?	NO If a non-DRE officer arrests a person for OUI drugs there is no administrative suspension. However, if a DRE has PC that a person is operating under the influence of a specific drug category, and there is a confirmatory test, or that person refuses a test, then BMV may suspend. 29-A M.R.S. §2525.+	NO If a non-DRE officer arrests a person for OUI drugs there is no administrative suspension. However, if a DRE has PC that a person is operating under the influence of a specific drug category, and there is a confirmatory test, or that person refuses a test, then BMV may suspend. 29-A M.R.S. §2525.+	NO If a non-DRE officer arrests a person for OUI drugs there is no administrative suspension. However, if a DRE has PC that a person is operating under the influence of a specific drug category, and there is a confirmatory test, or that person refuses a test, then BMV may suspend. 29-A M.R.S. §2525.+	NO If a non-DRE officer arrests a person for OUI drugs there is no administrative suspension. However, if a DRE has PC that a person is operating under the influence of a specific drug category, and there is a confirmatory test, or that person refuses a test, then BMV may suspend. 29-A M.R.S. §2525.+	NO If a non-DRE officer arrests a person for OUI drugs there is no administrative suspension. However, if a DRE has PC that a person is operating under the influence of a specific drug category, and there is a confirmatory test, or that person refuses a test, then BMV may suspend. 29-A M.R.S. §2525.+	NO If a non-DRE officer arrests a person for OUI drugs there is no administrative suspension. However, if a DRE has PC that a person is operating under the influence of a specific drug category, and there is a confirmatory test, or that person refuses a test, then BMV may suspend. 29-A M.R.S. §2525.+
Is There an Administrative Suspension for a Person Under 21 Operating with Any Amount of Cannabis?	NO	NO	NO	NO	N/A	N/A
NOTES:	*Neither of the definitions of "Cannabis" 22 M.R.S. §2383 & 28-A M.R.S. §102(27) nor the definition of "Marijuana" under 17-A M.R.S. §1101(1), include the resin from cannabis used to produce cannabis concentrate. Therefore, possession or use of Cannabis Concentrate outside of the Adult Use or Medical Use Statutes is otherwise governed by 17-A M.R.S. §1101(5) as <i>Hashish</i> which is a Schedule X Drug.	**A minor cannot be charged with both a violation of 22 M.R.S. §2389 and either §2382 or a violation of 17-A Chapter 45. <i>Note</i> : the Possession violation is a civil fine and the Transportation violation requires a mandatory license suspension.	***Under 29-A M.R.S. §2120 "smoking" must include combustion and <i>does not include</i> the use of an electronic smoking device or vaping. Furthermore, a "minor" is defined as a person less than 18 years old. 29-A M.R.S. §101(34).	+29-A M.R.S. 2521 provides for an administrative suspension if an <i>officer</i> has PC for OUI and the person refuses a test. However, it is not enforced by BMV for OUI Drugs, unless the refusal results from a <i>DRE</i> developing PC and ordering the person to take the test under 29-A M.R.S. §2525	++Smoking: The Medical Marijuana Act uses the Title 22 definition of "smoking" which <i>includes</i> the use of an electronic cigarette or vape: 22 M.R.S. §1541(6), & (1-A).	+++Under the Adult Use Statute: "Cannabis" means the leaves, stems, flowers and seeds of a cannabis plant, whether growing or not. This includes "cannabis concentrate" but does not include hemp or a "cannabis product." 28-B M.R.S. §101 (27). <i>Also Note</i> : The Adult Use and Medical Use Statutes are not mutually exclusive but coexist. E.g., a QP can interact with Cannabis in the same manner as any adult over 21 in Maine.

