

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 1205 - L.D. 1880

An Act to Amend the Adult Use Cannabis Laws

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 28-B MRSA §105, first ¶, as amended by PL 2021, c. 628, §1 and c. 669, §5, is further amended to read:

The department shall implement and administer a system, referred to in this section as "the tracking system," for the tracking of cannabis plants, adult use cannabis and adult use cannabis products from immature cannabis plant to the point of retail sale, return, disposal or destruction. The tracking system must allow for cannabis plants at the stage of cultivation and upon transfer from the stage of cultivation to another licensee to be tracked by group. The department may implement a tracking system that allows adult use cannabis or adult use cannabis products to be tracked by group.

Sec. 2. 28-B MRSA §105, 2nd ¶, as enacted by PL 2021, c. 628, §1 and amended by c. 669, §5, is further amended to read:

The department shall ensure that the system implemented and administered under this section, whether tracking individually or by group, maintains a detailed record at every stage from immature cannabis plant to the point of retail sale, return, disposal or destruction.

Sec. 3. 28-B MRSA §114 is enacted to read:

§114. Confidentiality

The home address, telephone number and e-mail address of the applicant, employees of the applicant and all natural persons having a direct or indirect financial interest in the applied-for license are confidential.

Sec. 4. 28-B MRSA §501, sub-§3, ¶D, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

D. A nursery cultivation facility may sell to consumers only immature cannabis plants, seedlings, cannabis seeds and agricultural or gardening supplies relating to the cultivation of cannabis pursuant to subsection 11 or from the nursery cultivation facility under this paragraph. Sales to consumers ~~by~~ from 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 cannabis plants, seedlings, cannabis seeds and agricultural or gardening supplies relating to the cultivation of cannabis. 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 cannabis 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.

Sec. 5. 28-B MRSA §501, sub-§10, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

10. Tracking. In accordance with the requirements of section 105, a cultivation facility licensee shall track the adult use cannabis it cultivates from immature cannabis plant to the point at which the cannabis plant or the cannabis produced by the cannabis plant is delivered or transferred to a products manufacturing facility, a testing facility, a cannabis store or another cultivation facility or is disposed of or destroyed. If a cultivation facility receives a return of a cannabis plant, cannabis flower or cannabis trim from a products manufacturing facility, a cannabis store or another cultivation facility, the cultivation facility licensee receiving the return shall track the returned cannabis plant, cannabis flower or cannabis trim to the point at which the return is transferred to a products manufacturing facility, a testing facility, a cannabis store or a cultivation facility or is disposed of or destroyed.

Sec. 6. 28-B MRSA §501, sub-§11 is enacted to read:

11. Delivery service. A tier 1 cultivation facility under section 301, subsection 1, a tier 2 cultivation facility under section 301, subsection 2 and a nursery cultivation facility may sell to consumers through a delivery service operated under the same requirements as for cannabis stores under section 504, subsection 9, but a nursery cultivation facility may sell under this subsection only those items authorized for sale under subsection 3, paragraph D. A cultivation facility authorized to conduct retail sales under this subsection shall ensure that the tax imposed on the sale of adult use cannabis and adult use cannabis 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.

Sec. 7. 28-B MRSA §502, sub-§13, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

13. Tracking. In accordance with the requirements of section 105, a products manufacturing facility licensee shall track the adult use cannabis it uses in its manufacturing processes from the point the cannabis is delivered or transferred to the products manufacturing facility by a cultivation facility to the point the cannabis or cannabis concentrate or an adult use cannabis product produced using the cannabis or cannabis concentrate is delivered or transferred to another products manufacturing facility, a testing facility or a cannabis store or is disposed of or destroyed. If a products manufacturing facility licensee receives a return of cannabis, cannabis concentrate or an adult use cannabis product from another products manufacturing facility or a cannabis store, the products manufacturing facility licensee shall track the cannabis, cannabis

concentrate or adult use cannabis product until transferred, whether in its original form or as a cannabis product, to another products manufacturing facility or a cannabis store or disposed of or destroyed.

Sec. 8. 28-B MRSA §502, sub-§14 is enacted to read:

14. Return of cannabis plant, flower or trim. Notwithstanding any provision of law to the contrary, a products manufacturing facility licensee may return a cannabis plant, cannabis flower or cannabis trim to a cultivation facility from which the cannabis plant, cannabis flower or cannabis trim was received, as long as the products manufacturing facility licensee tracks the cannabis plant, cannabis flower or cannabis trim until transferred to the cultivation facility and as long as the cultivation facility accepts returns.

Sec. 9. 28-B MRSA §504, sub-§8, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

8. Tracking. In accordance with the requirements of section 105, a cannabis store licensee shall track all adult use cannabis and adult use cannabis products from the point at which the cannabis or cannabis products are delivered or transferred to the cannabis store by a cultivation facility or a products manufacturing facility to the point at which the cannabis or cannabis products are sold to a consumer, are delivered or transferred to a testing facility, are returned to a cultivation facility or a products manufacturing facility from which the cannabis or cannabis products were received or are disposed of or destroyed.

Sec. 10. 28-B MRSA §504, sub-§9, as enacted by PL 2021, c. 667, §3 and amended by c. 669, §5, is further amended to read:

9. Limited delivery service. A cannabis store, cultivation facility or products manufacturing facility may operate a limited delivery service for the delivery of immature cannabis plants, seedlings, adult use cannabis and adult use cannabis products in accordance with the requirements of this subsection. A cannabis store may not deliver adult use cannabis or an immature cannabis plant, seedling or adult use cannabis product to a person under 21 years of age. A municipality may not prohibit delivery of adult use cannabis and adult use cannabis products authorized under this subsection.

A. A cannabis store, cultivation facility or products manufacturing facility operating a limited delivery service shall ensure that cannabis store employees engaging in delivery have received training, prescribed by the department by rule, on how to properly verify the age of a person making a purchase for delivery and how to ensure that no deliveries are made to a person under 21 years of age.

B. A cannabis store, cultivation facility or products manufacturing facility operating a limited delivery service may deliver only to a residential dwelling and may not deliver to any residential dwelling located to any location in a municipality, except locations within a safe zone designated by a municipality under Title 30-A, section 3253. A cannabis store operating a limited delivery service may deliver to a residential dwelling in any municipality in the State regardless of whether the municipality has approved the operation of cannabis stores.

C. A cannabis store, cultivation facility or products manufacturing facility operating a limited delivery service may deliver to a hotel or business as long as the cannabis store, cultivation facility or products manufacturing facility has received written consent for

delivery to the hotel or business from an authorized employee of the hotel or business and the cannabis store, cultivation facility or products manufacturing facility retains a copy of the written consent. The written consent must be maintained and open to inspection by the department in accordance with section 511.

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.

Sec. 11. 28-B MRSA §504, sub-§11 is enacted to read:

11. Return of adult use cannabis. Notwithstanding any provision of law to the contrary, a cannabis store licensee may return a cannabis plant, cannabis flower and cannabis trim to a cultivation facility from which the cannabis plant, cannabis flower or cannabis trim was received, or return cannabis or cannabis products to the products manufacturing facility from which the cannabis or cannabis product was received, as long as the cannabis store licensee tracks the return as required in subsection 8 until transferred to the cultivation facility or products manufacturing facility and as long as the cultivation facility or products manufacturing facility accepts returns.

Sec. 12. 28-B MRSA §602, sub-§1, ¶C, as enacted by PL 2017, c. 409, Pt. A, §6, is amended to read:

C. Dangerous yeasts, molds and mildew as specified in rules adopted by the department;

Sec. 13. 28-B MRSA §602, sub-§1-A is enacted to read:

1-A. Testing of returns. Cannabis and cannabis products returned pursuant to section 502, subsection 14 or section 504, subsection 11 must be tested prior to being resold or redistributed. The department may limit the mandatory testing required for returned cannabis and cannabis products by rule. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 14. 28-B MRSA §702, sub-§1, ¶B, as enacted by PL 2017, c. 409, Pt. A, §6, is repealed.

Sec. 15. 28-B MRSA §702, sub-§2, ¶C, as enacted by PL 2017, c. 409, Pt. A, §6, is amended to read:

C. A prohibition on opt-in advertising or marketing that does not permit an easy and permanent opt-out feature; ~~and~~

Sec. 16. 28-B MRSA §702, sub-§2, ¶D, as enacted by PL 2017, c. 409, Pt. A, §6, is amended to read:

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-; and

Sec. 17. 28-B MRSA §702, sub-§2, ¶E is enacted to read:

E. Specific limitations on signs, advertising and marketing to minimize the appeal of adult use cannabis and adult use cannabis products to persons under 21 years of age.

Sec. 18. 28-B MRSA §702, sub-§3 is enacted to read:

3. Restrictions on signs, advertising and marketing. A licensee may advertise or market the promotion of the licensee's business and adult use cannabis and adult use cannabis products sold by the licensee, including the display of a sign on the licensed premises and off the licensed premises on the exterior of a motor vehicle in accordance with this section.

Sec. 19. 28-B MRSA §703, sub-§1, ¶F, as amended by PL 2021, c. 558, §4, is further amended to read:

F. May not contain more than 10 milligrams of THC per serving of the product and may not contain more than ~~400~~ 200 milligrams of THC per package of the product, with an allowable variance rate of 10%, except that the allowable variance may not be less than 0.6 milligrams or greater than 5 milligrams. In the calculation of the amount of THC allowed under this paragraph, the allowable variance rate must be in addition to the allowable variance rate applicable to a testing facility pursuant to section 602, subsection 3;

Sec. 20. 28-B MRSA §1501, sub-§1, ¶B, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

B. Use, possess or transport at any one time up to 2 1/2 ounces of cannabis or 2 1/2 ounces of a combination of cannabis and cannabis concentrate that includes no more than ~~5~~ 10 grams of cannabis concentrate;

Sec. 21. 28-B MRSA §1501, sub-§1, ¶C, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

C. Transfer or furnish, without remuneration, to a person 21 years of age or older up to 2 1/2 ounces of cannabis or 2 1/2 ounces of a combination of cannabis and cannabis concentrate that includes no more than ~~5~~ 10 grams of cannabis concentrate;

Sec. 22. 28-B MRSA §1501, sub-§1, ¶F, as enacted by PL 2017, c. 409, Pt. A, §6 and amended by PL 2021, c. 669, §5, is further amended to read:

F. Subject to the limitations imposed under paragraph B, purchase up to 2 1/2 ounces of adult use cannabis or 2 1/2 ounces of a combination of adult use cannabis and cannabis concentrate that includes no more than ~~5~~ 10 grams of cannabis concentrate from a cannabis store; and