



Maine's Adult-Use Marijuana Regulation Law

On November 8, 2016, Maine voters approved Question 1 to legalize, tax, and regulate marijuana similarly to alcohol. In 2018, the legislature enacted a bill to implement and modify the law, LD 1719, overriding Gov. Paul LePage's veto. Here is a summary of the law, as amended.

Personal Possession and Cultivation Limits

- Adults who are 21 and older may:
 - possess, use, and transport up to 2.5 ounces of marijuana, no more than five grams of which may be concentrated marijuana, and marijuana paraphernalia;
 - give an identical amount to adults, along with no more than six seedlings or immature plants;
 - cultivate no more than three flowering plants, 12 immature plants, and unlimited seedlings (which are not flowering and are under six inches tall and under six inches wide); and
 - possess the cannabis produced from the above plants at the same location or the cultivator's residence.
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Prohibited Conduct and Penalties

- Marijuana may only be consumed in the person's private residence (including curtilage) or on private property with the property owner's explicit permission. A violation carries a civil fine of up to \$100.
 - Marijuana may not be used in a residence or property used for a babysitting service or daycare, while it is in use for that purpose. A violation carries a civil fine of up to \$100.
 - Personal cultivation restrictions:
 - Plants may not be visible from a public way without the use of optical aids.
 - Cultivators must take reasonable precautions to prevent unauthorized access by a person under 21 years of age.
 - Plants must be tagged with the cultivator's name, driver's license or ID number, and — if the plants are not on land owned by the cultivator — the name of the property owner.
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Cannabis Businesses Licensing

- The Department of Administrative and Financial Services is charged with licensing and regulating marijuana businesses. It must consult with the Department of Agriculture, Conservation and Forestry when crafting regulations regarding cultivation, manufacturing, and testing and with the Department of Public Safety regarding any rules concerning public safety or law enforcement matters.

- The Department of Administrative and Financial Services will license four types of cannabis businesses: marijuana stores, cultivation facilities, products manufacturers, and testing laboratories.
- It will license four tiers of cultivation facilities, plus nurseries. The smallest tier, tier 1, will allow no more than 30 mature plants or 500 square feet of canopy. The largest tier, tier 4, will initially allow not more than 20,000 square feet of plant canopy. In some cases, every two years, tier 4 licensees may apply for an increase of 7,000 square feet of plant canopy.
- All applicants for marijuana business licenses must:
 - with the exception of testing laboratories, be Maine residents if they are natural persons. If ownership is held by a business entity, all officers, directors, managers, and general partners must be residents and a majority of shares must be owned by residents. Any applicant that is a business entity must be incorporated in Maine;
 - be at least 21 years of age;
 - not have been convicted of a drug offense that carries a maximum penalty of a year or more, unless the person completed their entire sentence at least 10 years prior or the offense was for marijuana-related conduct that has been legalized;
 - not be employed by a state agency with a regulatory role;
 - not be employed as a law enforcement or corrections officer;
 - not have had a prior marijuana business license or medical marijuana ID card or license revoked; and
 - not owe outstanding court-ordered payments.
- Cultivation applicants:
 - must submit an operation and cultivation plan. Those must include the size and layout of the facility; plans for water, electricity, and wastewater and waste disposal; security plans; and plans for compliance with building code and environmental laws; and
 - may not have a direct or indirect financial interest in more than three licenses. In most cases, they also may not have a financial interest in facilities with a combined canopy of more than 30,000 square feet.
- Until January 1, 2022, applicants may not have an interest or license for more than four marijuana stores.
- Within 90 days of the license application, the department will issue a conditional license to qualified applicants. Applicants may not begin producing cannabis before they have an active license, which they cannot do until they receive local authorization from the relevant municipality, pay the licensing fee, submit a facility plan, and submit operating plans if they are a cultivation facility.

Cannabis Businesses Regulations

- All licensees must comply with Department of Administrative and Financial Services-issued regulations, including for packaging, labeling, health and safety, and sanitation.
- **Testing:** Before being sold, marijuana and marijuana products must be submitted to testing to ensure they don't exceed the maximum level of allowable contaminants and to ensure correct labeling. Testing will include testing for THC potency, homogeneity, and cannabinoid profiles, as well as testing for residual solvents, toxins, harmful chemicals, dangerous molds and mildew, harmful microbes, pesticides, fungicides, and insecticides.
- **Packaging and labeling:**
 - Marijuana and marijuana products may not be packaged or labeled:
 - in a way that causes confusion with a trademarked product;
 - in a way that is designed to appeal particularly to someone under 21; or

- with a human, animal, or fruit on packaging or the label.
- Marijuana products must be labeled with:
 - health and safety warning labels, as developed by regulators;
 - THC potency and cannabinoid profile information;
 - information on any gases, solvents, and chemicals used in marijuana extraction;
 - instructions on usage;
 - for marijuana-infused products: ingredients, possible allergens, recommended use-by and expiration dates, and a nutritional fact panel; and
 - the license number of the cultivation facility, products manufacturer, and store, along with the batch number.
- Marijuana products must be packaged:
 - in opaque packaging;
 - in child-resistant and tamper-evident packaging or placed in such packaging at the point of sale; and
 - in the case of liquids with multiple servings, have an integral measurement component and a child-resistant cap.
- **Signs, advertising, and marketing:**
 - may not be misleading, false, or deceptive;
 - may not promote health or physical benefit claims;
 - ads or marketing must not have a high likelihood of reaching persons under 21 years of age, nor be specifically designed to appeal particularly to those under 21;
 - unsolicited ads on the internet, such as banner ads on mass market websites, are prohibited
 - advertising targeting location-based devices is prohibited.
- **School buffers:** Marijuana establishments and marijuana signs and advertisements may not be located within 1,000 feet of a pre-existing school, unless the municipality has elected to implement a smaller buffer zone, which must be at least 500 feet.
- **Tracking:** The department will administer a cannabis tracking system, from immature plant to point-of-sale.
- **Sampling:** Some sampling of marijuana products is allowed off-site for both employees (for quality control, through non-smoked means) and between licensees (for business and marketing purposes).
- **Staff registration:** Before any licensee can have a new owner, officer, manager, or employee, the licensee must notify regulators, and the person must submit to a criminal records check and get an ID card. The department must approve the transfer of ownership interests.
- **Regulations specific to cultivation facilities:**
 - For two years after cultivation facilities are first licensed, medical marijuana dispensaries and primary caregivers may sell seeds and mature plants to them.
 - An adult-use cultivation facility may also operate as a medical marijuana dispensary or as a primary caregiver. It must separate the areas where medical and adult-use cannabis are cultivated, and the plants must be tagged as medical or adult-use.
- **Regulations specific to products manufacturers:**
 - Only licensed products manufacturers may conduct cannabis extractions.
 - Products manufacturers may only perform extractions with inherently hazardous substances if the department reviews and approves the licensee's plan, and the licensee submitted a certification from an industrial hygienist or professional engineer following their review of its storage, preparation, electrical, gas monitoring, fire suppression, and exhaust systems.
 - A commercial kitchen license is required for areas producing marijuana products.
 - Edible marijuana products:
 - may not contain more than 10 milligrams of THC per serving;

- may not contain more than 100 milligrams of THC per package;
 - may not be manufactured in the shape of a human, animal, or fruit;
 - may not be added to a trademarked product, unless that product is a component in the edible and it's not marketed as containing it;
 - may not include additives that are toxic or harmful, designed to make the product more addictive, or designed to appeal to persons who are under 21; and
 - must have a universal symbol stamped or embossed on each serving.
- **Regulations specific to testing facilities:**
 - Testing facilities must be certified for operation by the Department of Health and Human Services, Maine Center for Disease Control and Prevention.
 - Testing facilities must be accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by a third-party accrediting body or another organization approved by regulators.
 - Testing facilities must follow all regulations, including regarding recordkeeping, disposal, and testing protocol, as well as standards for the testing of different products, determining batch size, sampling, testing validity, and approval of tested products. Rules must also include acceptable testing and research practices, including related to remediation and retesting, quality control analysis, equipment certification and calibration, chemical identification, and reporting of test results.
 - Those with interests in a testing facility may not have an interest in other Maine marijuana businesses, including medical marijuana, except for other laboratories.
 - **Regulations specific to marijuana stores:**
 - Marijuana stores may sell marijuana, marijuana products, seedlings and immature marijuana plants, marijuana paraphernalia, and non-marijuana products (such as apparel).
 - Employees must check purchasers' IDs to ensure they are at least 21 years old.
 - Marijuana stores may not:
 - operate as a medical marijuana dispensary or primary caregiver at the same location as the adult-use marijuana store;
 - use a delivery service, vending machine, drive-through window, or internet-based sales platform;
 - sell to a person who is visibly intoxicated;
 - sell or give away products with tobacco and alcohol that do not include cannabis;
 - give away adult-use marijuana products or plants;
 - sell or give away mature marijuana plants; or
 - sell an amount of marijuana that exceeds that person's limit (apart from non-edible products without THC).
 - Only licensed marijuana stores may sell directly to consumers. Cultivation facilities and products manufacturers may also operate licensed marijuana stores.
 - **Penalties:**
 - On its own initiative or after receiving and investigating a complaint, the department may suspend or revoke a license or impose a monetary penalty.
 - The department will adopt regulations for monetary penalties. They may be no more than \$10,000 per minor violation, no more than \$50,000 per major violation, and no more than \$100,000 per major violation affecting public safety.
 - The department must first afford the licensee an opportunity to be heard.
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Local Control

- **Local authorization required for cannabis businesses:**
 - Municipalities may regulate marijuana establishments, including by enacting land use regulations, by allowing certain types (or all types) of marijuana establishments, by limiting the number, and by requiring a municipal license.
 - Marijuana establishments can only operate in municipalities that have enacted an ordinance allowing that type of marijuana business.
 - Marijuana establishments may not operate in towns, plantations, and unincorporated areas unless the town or county commissioners acting on behalf of the township have voted to allow that type of marijuana establishment.
 - **Personal cultivation:**
 - Municipalities and the Maine Land Use Planning Commission may not prohibit home cultivation, limit it to a specific area, or charge a fee for it.
 - Municipalities (or, in the case of a town, plantation, or township, the Maine Land Use Planning Commission) may limit the total number of plants that can be grown on one tract of land, as long as they are no lower than three mature plants, 12 immature plants, and unlimited seedlings.
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Application and Licensing Fees

- Application fees are as follows:
 - for marijuana stores, products manufacturers, and testing facilities, \$250.
 - for nurseries, \$60.
 - for cultivation facilities, fees range from \$100 for tier 1 to \$500 for tier 4.
 - Annual licensing fees are as follows:
 - for marijuana stores and products manufacturers, no more than \$2,500.
 - for testing facilities, no more than \$1,000.
 - for nurseries, \$350.
 - for the smallest cultivators — tier 1 — no more than \$250 for outdoor cultivation (or \$9 per mature plant if they elect a plant-based cap), or no more than \$500 for indoor cultivation (or \$17 per mature plant).
 - for the largest cultivators — tier 4 —, no more than \$15,000 for outdoor cultivation and not more than \$30,000 for indoor cultivation. The department may increase these amounts if the department approves a larger canopy count.
 - All fees and fines levied will be placed in the Adult Use Marijuana Regulatory Coordination Fund and used to adopt rules and to license and regulate adult-use marijuana establishments.
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Taxes and Tax Revenue Distribution

- **Excise tax:** Cannabis will be taxed at the point of sale from a cultivator at these rates:
 - \$335 per pound of marijuana flower or mature plants
 - \$94 per pound of marijuana trim
 - \$1.50 per immature marijuana plant or seedling
 - \$0.30 per seed
- **Sales tax:** At the point of sale, a 10% sales tax is imposed.
- **Regulatory Fund:** Creates the Adult Use Marijuana Public Health and Safety Fund, into which excise and sales tax revenue will be deposited.

- No more than 50% may be used for public health and safety awareness and education programs.
 - No more than 50% may be used for law enforcement training programs.
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Public Education, Law Enforcement Training, and Data Collection and Analysis

- Regulators must implement or facilitate the implementation of programs and campaigns to educate the public about health and safety matters relating to marijuana use, including to deter the use of marijuana by minors.
 - Regulators will develop, implement, or facilitate initiatives to enhance criminal justice agencies' training on the state's marijuana law, including through a program providing grants to regional or local criminal justice agencies.
 - Regulators will develop programs to facilitate, collect, and analyze marijuana-related data, including teens' and adults' marijuana use rates; school suspension and discipline relating to marijuana; poison center calls; emergency department visits and hospitalizations; operating under the influence of marijuana citations or arrests; marijuana-related motor vehicle accidents; marijuana-related violent crime; violent crime and property crime relating to the regulated and unregulated adult-use marijuana markets; and marijuana-related citations or arrests.
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Annual Report

- Beginning in February 2020, and every year thereafter, the Department of Administrative and Financial Services must submit a report to legislative committees on the above health and safety data, the number of marijuana business applicants, the number of licensees, the total square feet of marijuana plant canopy cultivated, the total amount of fees and taxes collected, marijuana-related staffing and costs, the volume and value of marijuana cultivated and sold, the number of inspections of marijuana licensees, the number of license violations and penalties, and recommendations for legislative changes.
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Marijuana Advisory Commission

- Creates a 15-member commission to study marijuana laws and report annually to the legislature on its findings and recommendations.
- Members include four state legislators; a representative of prosecutors; a representative of both the medical marijuana and the adult-use industries; a public health expert; two members of the public; and representatives of five state agencies —Administrative and Financial Services, Agriculture, Conservation and Forestry, Labor, Public Safety, and Health and Human Services.
- The advisory commission will:
 - review laws and rules about adult-use and medical marijuana, including regarding public health, public safety, juvenile and adult criminal and civil offenses, workplace drug testing, workplace safety, motor vehicle safety, landlords and tenants, personal use, taxes and fees;
 - solicit comments from the public, including regarding law enforcement contacts with them; and
 - submit recommended changes to the legislature to preserve public health and safety, to preserve voters' intent when they legalized marijuana, and to standardize, coordinate, or

integrate the adult-use and medical marijuana laws.

Marijuana and Employers

- Employers do not have to allow marijuana use, display, or possession at the workplace.
 - Employers may also enact policies restricting marijuana use in the workplace or “while otherwise engaged in activities within the course and scope of employment.”
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