

# Navigating the Maine Marijuana Legal Landscape

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# Maine Marijuana Statutes

## Marijuana Legalization Act (Adult Use Marijuana Act)

28-B M.R.S. §§ 101-1504

- ▶ Legalizes use and sale of marijuana for adult use purposes
- ▶ State licensing for adult use marijuana stores, cultivation facilities, manufacturing facilities, and testing facilities
- ▶ No social clubs

## Maine Medical Use of Marijuana Act

22 M.R.S. §§ 2421-2430-H

- ▶ Legalizes use and distribution of marijuana for medical purposes
- ▶ State registration for caregivers, dispensaries, manufacturing facilities, and testing facilities
- ▶ Caregiver retail stores
- ▶ 14 registered dispensaries (unlimited dispensaries after 2021)

# Maine Marijuana Statutes

## Cultivation

### Marijuana Legalization Act (Adult Use Marijuana Act)

- ▶ Adults can cultivate up to 3 mature plants, 12 immature plants, unlimited seedlings for personal use
- ▶ 4 tiers of cultivation facility licenses, largest tier up to 20,000 sq. ft.

### Maine Medical Use of Marijuana Act

- ▶ Patients can cultivate up to 6 mature plants, 12 immature plants, unlimited seedlings for their own medical use
- ▶ Registered caregivers can cultivate up to 30 mature plants or 500 sq. ft. of plant canopy

# Municipal Opt-In

Default is prohibition

## Adult use establishments

- ▶ Adult use retail stores
- ▶ Cultivation facilities
- ▶ Manufacturing facilities
- ▶ Testing facilities

## Medical establishments

- ▶ Caregiver retail stores
- ▶ Registered dispensaries
- ▶ Manufacturing facilities
- ▶ Testing facilities

**Unless a municipality's legislative body has voted to allow a particular type of marijuana establishment, such establishment is prohibited in that municipality.**

# Municipal Opt-In

## Continued

### Some Medical Marijuana Establishments Grandfathered

- ▶ Municipalities cannot prohibit caregiver stores, dispensaries, manufacturing facilities and testing facilities in operation with municipal approval before December 13, 2018
- ▶ LD 1129 - “Municipal approval” means examination or approval of the establishment for its medical marijuana use (e.g. conditional use or site plan approval)

# Municipal Opt-In

## Considerations

### To Opt-in or Not...

- ▶ Straw polls/non-binding votes
- ▶ Marijuana committee
- ▶ Which establishments?
- ▶ How many?
- ▶ Resources for local regulation?
- ▶ Voter petitions

# Municipal Regulation

## Adult use marijuana

- ▶ Stores, cultivation facilities, manufacturing facilities, testing facilities
- ▶ Can limit number of plants on one parcel/tract for home cultivation
- ▶ Cannot prohibit, license or zone home cultivation
- ▶ Cannot regulate personal use or possession

## Medical marijuana

- ▶ Registered caregivers, caregiver stores, registered dispensaries, manufacturing facilities, testing facilities
- ▶ Cannot prohibit or limit number of caregivers
- ▶ Cannot regulate patient/unregistered caregiver personal use or possession

# Municipal Regulation

## Caregiver retail store definition

- ▶ LD 1129 - effective Sept. 19, 2019, “caregiver retail store” means:
- ▶ A store with attributes generally associated with retail stores, including:
  - A fixed location
  - A sign
  - Regular business hours
  - Accessibility to the public
  - Sales of goods directly to the consumer

used by a registered caregiver to offer marijuana for sale to patients



# Municipal Regulation

## Considerations

- ▶ No “one size fits all” method of regulation
- ▶ Stand-alone ordinance or amendment to existing ordinances
- ▶ Regulations for medical and adult use
- ▶ Licensing - reasonable fees
- ▶ Zoning
- ▶ Land use regulation
  - ▶ Site plan review, odor control, setbacks
  - ▶ Home cultivation - limiting total number of adult use plants per parcel

# State/Municipality Communication

## Adult use marijuana

- ▶ Active license conditioned on municipal approval
- ▶ Municipal approval certification sent to OMP within 90 days
- ▶ Notice to municipality within 14 days of any action on license

## Medical marijuana

- ▶ Registration not conditioned on municipal approval
- ▶ No state licensing for caregiver stores
- ▶ CEO/Municipal Officer can verify caregiver information with OMP

# Taxation

## Adult use marijuana

- ▶ 10% sales tax on retail sale of adult use marijuana products
- ▶ Monthly excise tax payments on wholesale products sold by cultivation facilities
- ▶ 20% effective tax rate

## Medical marijuana

- ▶ 5.5% sales tax on non-edible medical marijuana products
- ▶ 8% sales tax on edibles

**No municipal revenue sharing or local option taxation**

# Hemp and CBD

## 7 M.R.S. § 2231

- ▶ Hemp cultivation requires a license from DACF
- ▶ LD 630 - (Emergency) redefines hemp to include all derivatives - **CBD**
- ▶ LD 1749 - (Sept. 19, 2019) “marijuana” definitions in both marijuana laws amended to exclude hemp as defined in 7 M.R.S. § 2231
- ▶ Under Maine law, hemp and hemp-derived CBD are regulated by 7 M.R.S. § 2231 only
- ▶ Maine’s marijuana statutes do not apply
- ▶ CBD authorized for **intrastate** sale - interstate sale restricted federally

# MMA Marijuana Resources

Maine Municipal Association - [www.memun.org](http://www.memun.org)



MMA Legal Services Department - 1-800-452-8786  
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