An Act To Delay the Implementation of Certain Portions of the Marijuana Legalization Act

(EMERGENCY)

Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

Presented by Representative LUCHINI of Ellsworth.
Cosponsored by President THIBODEAU of Waldo.
Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, implementing a system for the regulation and administration of the cultivation, distribution and retail sale of recreational marijuana, a controlled substance, is a complex function with significant financial costs; and

Whereas, ensuring that possession and use of recreational marijuana is limited to persons who are 21 years of age and older is necessary to protect those who have not yet reached adulthood from the potential negative effects of irresponsible use of a controlled substance; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 7 MRSA §2444, first ¶, as enacted by IB 2015, c. 5, §1, is amended to read:

For Beginning February 1, 2018, for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing and sale of retail marijuana and retail marijuana products in this State, the state licensing authority is the Department of Agriculture, Conservation and Forestry.

Sec. 2. 7 MRSA §2445, first ¶, as enacted by IB 2015, c. 5, §1, is amended to read:

The Beginning February 1, 2018, the state licensing authority shall establish, within a specific time frame, a retail marijuana and retail marijuana products independent testing and certification program. This program must require licensees to test retail marijuana and retail marijuana products to ensure at a minimum that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

Sec. 3. 7 MRSA §2446, sub-§5 is enacted to read:

5. Effective date. This section takes effect February 1, 2018.

Sec. 4. 7 MRSA §2447, first ¶, as enacted by IB 2015, c. 5, §1, is amended to read:

An Beginning February 1, 2018, an application for a license under the provisions of this chapter must be made to the state licensing authority on forms prepared and furnished by the state licensing authority and must set forth such information as the state licensing authority may require to enable the state licensing authority to determine whether a license should be granted. The information must include the name and address of the
applicant and the names and addresses of the applicant's officers, directors or managers. Each application must be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe. The state licensing authority may issue a license to an applicant pursuant to this section upon completion of the applicable criminal history record check associated with the application. The license is conditioned upon municipal approval. An applicant is prohibited from operating a retail marijuana establishment or retail marijuana social club without state licensing authority and municipal approval. If the applicant does not receive municipal approval within one year from the date of state licensing authority approval, the license expires and may not be renewed. If an application is not approved by the municipality, the state licensing authority shall revoke the license.

Sec. 5. 7 MRSA §2448, sub-§19 is enacted to read:

19. Effective date. This section takes effect February 1, 2018.

Sec. 6. 7 MRSA §2449, sub-§6 is enacted to read:

6. Effective date. This section takes effect February 1, 2018.

Sec. 7. 7 MRSA §2450, first ¶, as enacted by IB 2015, c. 5, §1, is amended to read:

A. Beginning February 1, 2018, a license granted under the provisions of this chapter is not transferable except as provided in this section, but this section does not prevent a change of location as provided in section 2451, subsection 7.

Sec. 8. 7 MRSA §2451, first ¶, as enacted by IB 2015, c. 5, §1, is amended to read:

The Beginning February 1, 2018, the following provisions govern licensing in general.

Sec. 9. 7 MRSA §2452, sub-§1, ¶¶D and E, as enacted by IB 2015, c. 5, §1, are amended to read:

D. Purchase Beginning February 1, 2018, purchase up to 2 1/2 ounces of retail marijuana and marijuana accessories from a retail marijuana store; and

E. Purchase Beginning February 1, 2018, purchase up to 12 seedlings or immature plants from a retail marijuana cultivation facility.

Sec. 10. 7 MRSA §2452, sub-§5, as enacted by IB 2015, c. 5, §1, is amended to read:

5. Use. A. Prior to February 1, 2018, a person may consume marijuana only in a nonpublic place including a private residence. Beginning February 1, 2018, a person may consume marijuana in a nonpublic place.

A. The prohibitions and limitations on smoking tobacco products in specified areas in Title 22, chapters 262 and 263 apply to smoking marijuana.
B. A person who smokes marijuana in a public place other than as governed by Title 22, chapters 262 and 263 commits a civil violation for which a fine of not more than $100 may be adjudged.

C. This subsection may not be construed to shield any adult from federal prosecution.

D. This subsection may not be construed to allow any adult to possess or consume marijuana on federal property.

Sec. 11. 7 MRSA §2452, sub-§6 is enacted to read:

6. **Possession of certain edibles.** Notwithstanding subsection 1, until February 1, 2018, a person may not possess edible retail marijuana products. This subsection does not apply to marijuana products purchased for medical use pursuant to Title 22, chapter 558-C.

Sec. 12. 7 MRSA §2453, sub-§4 is enacted to read:

4. **Effective date.** This section takes effect February 1, 2018.

Sec. 13. 7 MRSA §2454, sub-§5 is enacted to read:

5. **Effective date.** This section takes effect February 1, 2018.

Sec. 14. 15 MRSA §3103, sub-§1, ¶B, as amended by PL 2011, c. 464, §3, is further amended to read:

B. Offenses involving illegal drugs or drug paraphernalia as follows:

   (1) The possession of a useable amount of marijuana, as provided in Title 22, section 2383, unless the juvenile is authorized to possess marijuana for medical use pursuant to Title 22, chapter 558-C;

   (2) The use or possession of drug paraphernalia as provided in Title 17-A, section 1111-A, subsection 4-B; and

   (3) Illegal transportation of drugs by a minor as provided in Title 22, section 2389, subsection 2;

Sec. 15. 15 MRSA §3314, sub-§3-A, as corrected by RR 2009, c. 2, §36, is amended to read:

3-A. **Operator's license suspension for drug offenses.** The court may suspend for a period of up to 6 months the license or permit to operate, right to operate a motor vehicle and right to apply for and obtain a license of any person who violates section 3103, subsection 1, paragraph B; Title 17-A, chapter 45; Title 22, section 2383, unless the juvenile is authorized to possess marijuana for medical use pursuant to Title 22, chapter 558-C; Title 22, section 2389, subsection 2; or Title 28-A, section 2052 and is adjudicated pursuant to this chapter to have committed a juvenile crime.

The court shall give notice of suspension and take physical custody of an operator's license or permit as provided in Title 29-A, section 2434. The court shall immediately
Sec. 16.  36 MRSA §1817, sub-§8 is enacted to read:

8. Effective date. This section takes effect February 1, 2018.

Sec. 17.  Retroactivity. This Act applies retroactively to January 30, 2017.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill delays the effective date of most of the provisions of the Marijuana Legalization Act as enacted by citizen initiative to February 1, 2018. The delayed effective date does not apply to the provision in the initiated bill that repeals the Maine Revised Statutes, Title 22, section 2382, subsection 1, which makes possession of up to 2 1/2 ounces of marijuana a civil violation, or the following provisions, which will be effective as of January 30, 2017:

1. A person 21 years of age or older may use, possess or transport up to 2 1/2 ounces of marijuana;

2. A person 21 years of age or older may transfer, without remuneration, up to 2 1/2 ounces of marijuana and up to 6 immature plants or seedlings to a person who is 21 years of age or older;

3. A person 21 years of age or older may possess, grow, cultivate or transport up to 6 flowering marijuana plants, 12 immature plants and unlimited seedlings and possess all of the marijuana produced by the plants at the person's residence; and

4. A person 21 years of age or older may consume marijuana in a private residence.

The bill clarifies that possession of a useable amount of marijuana by a juvenile is a crime, unless that juvenile is authorized to possess marijuana for medical use. Finally, the bill prohibits the possession of any edible retail marijuana products until February 1, 2018.