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To: Current and Prospective AUMP Licensees
From: Director Erik Gundersen, Office of Marijuana Policy
Date: Tuesday, July 13, 2021
Subject: Enacted Marijuana-related Legislation – First Special Session of the 130th Legislature

Background

This guidance is provided by the Office of Marijuana Policy (OMP) to make Adult Use Marijuana Program (AUMP) licensees aware of recent changes to the laws governing this program as a result of the most recent legislative session.

This guidance is not intended to be a comprehensive summary of all legislative changes affecting the state's adult-use program. Rather, this guidance is being provided as a courtesy, should not be construed as legal advice, and should not be viewed as a substitute for adult use licensees consulting with qualified business consultant(s) and/or attorney(s) about the application of the requirements of the Marijuana Legalization Act to their unique situation.

Guidance

Among the bills that became law this session was legislation which addressed technical issues with the AUMP. Some of these bills were designated as “emergency” legislation, meaning that the contents of those bills became effective either upon the signature of the Governor or without the Governor’s signature, following a 10-day waiting period. Non-emergency legislation will become effective 90 days after the legislature adjourns *sine die*; following adjournment, the Revisor of Statutes will publish the date that these laws go into effect.

The following is a summary of some of the changes enacted by the Legislature which will affect AUMP licensees to varying degrees. **Please note:** Despite certain emergency legislation being currently in effect, this language may not be reflected in the Maine Revised Statutes (<https://legislature.maine.gov/statutes/28-B/title28-Bch0sec0.html>) until the Revisor of Statutes completes their revisions to Title 28-B.

An Act to Amend the Marijuana Legalization Act, [PL 2021, ch. 226](#) (LD 605 - Emergency, effective June 16, 2021)

- Strikes the requirement that sample collector licensees obtain from Maine Revenue Services a sales tax identification number; and
- Repeals the October 1, 2021 sunset on the provision that permits cultivation and manufacturing facility licensees to collect and transport samples of marijuana and marijuana products for mandatory testing (“self-sampling”).

An Act to Clarify Certain Provisions Regarding the Marijuana Excise Tax, [PL 2021, ch. 323](#) (LD 871 - Emergency, effective June 22, 2021)

- Codifies in law the wet weight conversion formula promulgated by DAFS' *Emergency Rule Regarding the Imposition of Excise Taxes on Sales, Purchases and Transfers of Adult Use Marijuana*, 18-691 C.M.R., ch. 3 which provides for a 75% reduction in the wet weight of marijuana flower and trim transferred by cultivation facility licensee (i.e. "fresh frozen" marijuana); and
- Changes the excise tax on mature marijuana plants transferred to or from an adult use cultivation facility licensee from a weight-based tax to a **per plant tax of \$35 per mature marijuana plant**.

Maine Revenue Services recently published the second issue of the July 2021 Maine Tax Alert, which discusses this legislation. You may view tax alerts by visiting:

<https://www.maine.gov/revenue/publications/maine-tax-alerts>.

An Act to Make Technical Changes to the Maine Medical Use of Marijuana Act, [PL 2021, ch. 251](#) (LD 881 - Emergency, effective June 17, 2021)

- Provides for a universal definition of "seedling" in the Maine Medical Use of Marijuana Program (MMMP) and AUMP, which is a marijuana plant or rooted cutting that is not flowering, less than 24 inches in height, and less than 24 inches in width.

This will impact at what point individual plants are required to be tagged and tracked in the state's inventory tracking system, Metrc. Licensees may choose to continue to tag and track smaller plants in the inventory tracking system in accordance with existing business practices.

An Act Regarding Controlled Entry Areas within Retail Marijuana Stores, [PL 2021, ch. 314](#) (LD 1434)

- Permits adult use marijuana store licensees to check customer photo identification inside the licensed premises in an area which is "physically separated from the sales area of the marijuana store". Adult use marijuana store licensees that wish to utilize a "controlled entry area" within their licensed premise should update their operating and security plans through the state's online licensing portal: https://licensing.web.maine.gov/cgi-bin/online/licensing/begin.pl?board_number=421.

OMP intends to provide additional guidance and updates as the effective date of this legislation approaches, to allow licensees to proceed with this new provision of law in as timely a manner as possible, so please ensure at all times that we have your most up-to-date contact information.

Conclusion

This is not a comprehensive summary of recent legislative changes but instead is intended to give our adult use licensees an understanding of changes that affect their business operations. Program participants with questions regarding this guidance can contact Gabi Pierce at Gabi.Pierce@maine.gov for additional clarification.