

MAY 3, 2018

Last evening the second session of the 128th Maine Legislature fully adjourned its second regular session “sine die”, which is the Latin term for without another day. The manner of adjournment was contentious in the House of Representatives, where a proposal to extend the legislative session failed to garner enough votes for passage. As a result, several issues are left unresolved, including funding for schools and counties.

At this point it is unknown if and when the Legislature might reconvene for a special session to address these issues. We will keep you posted.

In the meantime, we are able to report that the Legislature managed yesterday to enact a law responding to the many questions left unanswered by the terms of the voter-adopted Marijuana Legalization Act. Efforts to clarify in statute the home rule authority to regulate medical marijuana operations remain in limbo. Here are the details:

Non-medical (a.k.a. “recreational” or “adult use”). Both the House and Senate voted yesterday by more than the required 2/3 majority of its members to override Governor LePage’s veto of LD 1719, An Act To Implement a Regulatory Structure for Adult Use Marijuana.

LD 1719, summarized below and described in greater detail in the April 6 edition of MMA’s Legislative Bulletin, takes effect immediately as “emergency” legislation.

Medical. The 128th Legislature has now finally adjourned its second regular session. The two pieces of legislation providing municipalities broad regulatory authority under Maine’s Medical Use of Marijuana Act (LD’s 238 and 1539) will die if they are not enacted during a special session that would need to occur prior to the seating of the 129th Legislature.

To date, LD 1539 has been passed to be engrossed (the final step before enactment) in the House and Senate, and the same is true of LD 238 in the Senate. It should be noted that the provision in Title 22, section 2423-A(13) authorizing municipalities to impose moratoria on caregiver cultivation facilities within 500 feet of schools expires on July 1, 2018.

Bill Summaries

Below are general summaries of these three bills. More detailed summaries are included in the 2018 LD List.

LD 1719 – Re-writes the existing non-medical Marijuana Legalization Act, placing it in a newly-created Title 28-B of Maine statute, requiring municipalities to opt-in to allow marijuana establishments, prohibiting online, drive-through, and social club sales, and reserving all sales and excise tax revenues for the state.

LD 238 – The bill which (1) provides for accredited third-party testing of medical marijuana while imposing safety and compliance measures on currently un-regulated or lightly-regulated extraction and concentration processes which often utilize hazardous substances, and (2) replaces the current municipal school setback and dispensary regulation authorities in the Act with comprehensive home rule authority to fully regulate registered caregivers, dispensaries,

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On Wednesday, May 2, 2018, the Maine Legislature voted to override Governor LePage's veto of LD 1719, "An Act to Implement a Regulatory Structure for Adult Use Marijuana." This new law, which was enacted as an emergency, takes effect immediately, and completely replaces the existing recreational marijuana statutes.

The Adult Use Marijuana Act prevents adult use (formerly recreational) marijuana establishments from operating until municipalities "opt-in" to the operation of adult use marijuana establishments within their jurisdiction, through a vote of the legislative body. For those municipalities wondering whether to extend their moratorium ordinances, or enact prohibition ordinances, you can relax. Under the "opt-in" process of the new law, municipalities are no longer required to take any additional action to prevent commercial adult use marijuana activity from occurring in the municipality. However, those municipalities interested in authorizing commercial adult use marijuana activity, and enacting local regulation of adult use marijuana establishments, have broad home rule authority to do so under the new law.

Keep in mind that the state licenses for adult use marijuana establishments cannot be issued until the state licensing agencies develop the necessary application forms and rules, which will probably not happen for several months. It will still be some time before adult use marijuana businesses are up and running in the State.

MMA Legal Services is in the process of developing an Information Packet with details on the Adult Use Marijuana law. Stay tuned.