

L.D. 1847 – Public Health Compromises Made to Benefit Industry Stakeholders

The amended version of Rep. Graham's bill (L.D. 1847), including Rep. Malon's amendment, reflects numerous compromises made by public health, balancing our concerns with the interests of medical and adult use cannabis industry stakeholders.

Below is an outline of 12 significant changes that have already been made at the request of industry.

- **Carves Out from Mandatory Testing for the Smallest Operators in the Program**
 - Cultivation area must be at primary residence, limitations on plant canopy (500 sq. ft. or 30 mature plants; or 1,000 sq. ft./60 plants combined with one family member), no wholesale transactions
 - Untested product would need to be labeled as such, improving consumer transparency.
- **Provides Financial Support and Reduced Fees for Small Operators**
 - OCP will establish a financial assistance program, funded by the Medical Use of Cannabis Fund, for registrants with gross sales under \$125,000 whose testing costs exceed 10% of gross revenue.
 - Eligible registrants may receive up to \$100 per batch to offset mandatory testing costs, reducing the financial burden of testing on small businesses.
- **Implements Speciation Testing for Yeast and Mold**
 - OCP is directed to adopt evidence-based rules establishing maximum level parameters for speciation testing of harmful yeasts and molds, including the range for allowing speciation tests for cannabis flower and cannabis trim.
 - Under this approach, maximum contaminant levels are determined based on the type of contaminant, risk to human health, and method of consumption – rather than a single pass/fail threshold – reducing the risk of unnecessary product failures while still protecting consumers.
 - The exploration of this evidence-based approach was in direct response to industry concerns raised during the public hearing.
- **Removes PFAS From Mandatory Testing and Definitions**
 - Cannabis is a bioaccumulator, so the original bill added PFAS to the list of required analytes for medical cannabis testing. This requirement was removed due to industry concerns over costs and practicality. MPHA will work with OCP and Maine CDC to provide educational information and resources for cannabis operators on available PFAS testing and remediation.
- **Removes Potency Limit for Medical Cannabis and Medical Cannabis Products**
 - The original bill's per-serving (10 mg THC) and per-package (200 mg THC) potency caps, along with minimum and maximum allowable variance caps, were removed; the bill retains a standard 10% allowable variance rate without additional restrictions.
- **Doubles Maximum Batch Size**
 - For purposes of sampling and mandatory testing, a "batch" may not exceed 44 pounds by net weight, regardless of matrix, applying uniformly to flower, trim, prerolled cannabis cigarettes, concentrates, and cannabis products manufactured at the same time under the same conditions.
 - This generous batch size (double the size of what is currently allowed in the adult use program) allows operators to test larger quantities of product at once, reducing the overall number of mandatory tests required and lowering per-unit testing costs.
- **Removes Blister Packaging Requirement for Gummies**
 - The original bill mandated that gummies not stamped or embossed with the universal symbol on each serving must be blister packaged with the symbol on each individually packaged serving.

- **Removes Patient Education Requirements**
 - The original bill would have required registrants to provide educational materials to qualifying patients at the time of sale covering dosing, delayed onset, overconsumption risks, and safe storage; this was removed.
- **Removes Youth Study Group**
 - The original bill created a 13-member study group authorized to hold up to six meetings and at least one public hearing to examine youth cannabis consumption data, health effects, and reporting strategies, with a requirement to produce a report and suggested legislation to address high-risk youth consumption concerns.
- **Removes Language Directing Tax Funds to Support Public Health**
 - The original bill would have changed the Adult Use Cannabis Fund from permissive ("may") to mandatory ("must"), requiring at least 25% be expended on public health and safety awareness programs covering both adult use and medical cannabis, with priority for minors.
- **State Tracking System Implementation**
 - The Office of Cannabis Policy is directed to work with Maine IT on the process and costs to implement a state tracking system.
 - OCP is directed to provide regular updates on the existing vendor contract for the adult use program.
- **Fixes Over-taxing of Cannabis Pre-rolls**
 - In response to industry complaints that pre-rolls are over-taxed (pre-rolls are currently taxed at the higher rate for flower, regardless of trim content), the amendment reclassifies the excise tax on adult use cannabis pre-rolls so that the tax is calculated based on the actual amount per pound (or fraction thereof) of adult use cannabis flower and/or adult use cannabis trim used in the pre-roll.