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To: Current and Prospective Adult Use Cannabis Program Participants  
From: Director John Hudak, Office of Cannabis Policy  
Date: July 30, 2024  
Subject: Implementation of Recently Enacted Legislation – Effective August 9, 2024

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### Background

Several laws were enacted during the second regular session of the 131<sup>st</sup> Legislature that impact the administration and enforcement of the Cannabis Legalization Act, Title 28-B, ch. 1. Those recent legislative changes are outlined in [guidance](#) previously issued by the Office of Cannabis Policy (OCP). OCP is now issuing this guidance to provide current and prospective Adult Use Cannabis Program (AUCP) participants with additional information regarding the implementation of those recently enacted laws, particularly those affected by ongoing major substantive rulemaking.

Unless otherwise indicated in this guidance document, all non-emergency legislation enacted during the second regular session of the 131<sup>st</sup> Legislature goes into effect on **Friday, August 9**.

Notably, *An Act to Protect Liberty and Advance Justice in the Administration and Enforcement of the Cannabis Legalization Act and the Maine Medical Use of Cannabis Act*, [P.L. 2023, ch. 679](#), makes a number of substantive changes to the laws governing the AUCP. It also authorizes OCP to finally adopt three major substantive rules affecting the adult use program. That authorization is contingent, however, on OCP integrating legislative changes made during the 131<sup>st</sup> Legislature into those major substantive rules. As a result of this requirement, several of the provisions included in P.L. 2023, ch. 679 will not go into effect until those major substantive rules are finally adopted and made effective later this year.<sup>1</sup>

Licensees are also reminded that some of the changes indicated herein will require updates to the facility plan of record that is on file with OCP prior to implementing such changes at their facility. The guidance below identifies which changes may require an update to a licensee's facility plan of record, but this guidance is not legal advice and does not address all legislative changes that may be applicable to program participants. Licensees are advised to consult their own counsel regarding the applicability of these changes to their particular circumstances.

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<sup>1</sup> Per the Maine Administrative Procedure Act, Title 5, ch. 375, major substantive rules must be finally adopted within 60 days of the effective date of any legislation authorizing their adoption. Finally adopted major substantive rules become effective 30 days after the rules are finally adopted by the agency that promulgated them. In this case, P.L. 2023, ch. 679 goes into effect on August 9, 2024, which means OCP must finally adopt those rules no later than October 8, 2024, which means the major substantive rules affecting the Adult Use Cannabis Program will become effective no later than November 7, 2024.

## Guidance

The following is a brief review of the statutory and rule provisions of which OCP has received questions regarding the timelines for implementation. As such, it does not address the implementation timeline for every provision of recently enacted legislation affecting the AUCP.

**The following changes will become effective on Friday, August 9, but may require additional action on the part of a licensee** to lawfully engage in the authorized activity. If applicable, a licensee may submit to OCP an updated plan of record reflecting changes necessitated by the statutory changes, however OCP will not start reviewing or approving those updated plans of record until August 9.

### **Changes effective August 9, 2024, that may require additional licensee action:**

- Elimination of the requirement that co-located adult use licensees be separated by a single, lockable door.
  - **Additional action:** Licensees removing a single, lockable door from their licensed premises are reminded to submit an updated facility plan of record to OCP.
- Allowing purchaser age verification to occur at the point-of-sale rather than upon entry into the licensed premises of a cannabis store, and permitting entry of minors into a cannabis store when accompanied by a parent, guardian, or custodian.
  - **Additional action:** Cannabis store licensees choosing to move purchaser ID checks from the entrance of the store to the point-of-sale are advised that an update to the store's facility plan of record is required prior to changing the layout of the licensed premises of the cannabis store.
  - **Additional action:** An update to the licensee's facility plan of record may also be needed if policies related to age verification are updated in a way that changes the licensee's response to questions on, or information provided in, the facility plan of record.
- Expanding the definition of "visitor" to include any person who is not a minor, or a contractor under 28-B MRS § 510 or an employee who is required to obtain and maintain an individual identification card.
  - **Additional action:** Licensees should review existing visitor policies included in their facility plan of record and should update the facility plan of record with OCP if they choose to make any changes to their visitor policy.
- Permitting a cannabis testing facility to retest for potency a portion of the remaining representative sample of a batch of cannabis or cannabis products at the request of a licensee.
  - **Additional action:** Cannabis testing facility licensees should review their sample retention and reporting policies and procedures to ensure that the facility's practices are updated to require the retention of enough of the primary sample necessary to, upon request of the licensee that originally submitted the sample, conduct a retest of the batch's cannabinoid potency. Such a **request must be received within 5 business days from the date the original potency result was reported to the licensee** who submitted the sample.

- All licensees are reminded that retesting a sample of cannabis or cannabis products can only be conducted on a portion of the original composite sample that was submitted for mandatory testing to the cannabis testing facility. A licensee may not submit a new sample for the purposes of retesting a batch of cannabis or cannabis products for potency.
- The cannabis testing facility must report both the original potency result and the result of the retest, and the licensee that requested the potency retest shall use the potency results from the retest on the label of the cannabis or cannabis product that was retested for potency.
- Allowing cultivation facility licensees to accept in **one transaction** a gift of up to 12 seedlings ***or*** up to 2.5 ounces of seeds from an individual **once every 90 days**.
  - ***Additional action:*** Cultivation facility licensees that intend to accept a gift from an individual of up to 12 seedlings or up to 2.5 ounces of seeds can use the Gifting of Seeds or Seedlings Form which will soon be made available [here](#) to request approval of the gift from OCP’s Compliance Team.

Finally, as indicated above and in guidance previously issued by OCP, several of the statutory changes included in P.L. 2023, ch. 679 require rulemaking before they can be fully implemented. **The following changes will not be implemented until OCP finally adopts the major substantive rules governing the Adult Use Cannabis Program later this year.** As that date approaches, OCP will issue more detailed guidance regarding the implementation timeline and details of those new rules.

**Changes *not* effective until major substantive rulemaking is completed later this year:**

- OCP review of licensee packaging, labeling, advertising or marketing materials for compliance with program requirements and approval of the same. (Once implemented, licensees will be able to submit packaging, labeling, advertising or marketing materials for review by OCP through the [licensee portal](#) on OCP’s website.)
- Manufacturing products that do not contain cannabis within the portion of the licensed premises of a products manufacturing facility that is also licensed as a food establishment by the Department of Agriculture, Conservation and Forestry.
- Provision of consumer samples by a cannabis store licensee within the licensed premises of the cannabis store.
- Entry of minors into the licensed premises of cultivation facilities, products manufacturing facilities or cannabis testing facilities in emergency circumstances, provided that the minor is accompanied by their parent, legal guardian or custodian who is an individual identification cardholder responding to an emergency at the facility.

Conclusion

*An Act to Protect Liberty and Advance Justice in the Administration and Enforcement of the Cannabis Legalization Act and the Maine Medical Use of Cannabis Act, P.L. 2023, ch. 679,* includes provisions that impact the regulation of participants in Maine’s Adult Use Cannabis Program. In anticipation of this new law going into effect, OCP is providing this guidance to

ensure that current and prospective adult use licensees are aware of legislative changes that could impact their businesses.

Unless otherwise specified in this guidance, the statutory changes included in P.L. 2023, ch. 679 will go into effect on **August 9, 2024**. Statutory changes that will not be implemented on August 9 will be deferred until OCP finally adopts the major substantive rules governing the Adult Use Cannabis Program later this year, specifically: the *Rules for the Administration of the Adult Use Cannabis Program*, 18-691 CMR, ch. 10, *Rules for the Licensure of Adult Use Cannabis Establishments*, 18-691 CMR, ch. 20, and the *Compliance Rules for Adult Use Cannabis Establishments*, 18-691 CMR, ch. 30.

Program participants are encouraged to contact their own attorney for guidance regarding the applicability of these changes to their particular circumstances, and individuals with questions regarding this guidance can contact OCP's Licensing Team at [Licensing.OCP@maine.gov](mailto:Licensing.OCP@maine.gov) or OCP's Policy Director at [Gabi.Pierce@maine.gov](mailto:Gabi.Pierce@maine.gov).