

Marijuana in Maine after the Passage of the Citizens' Initiative:

MARIJUANA LEGALIZATION ACT

**IMPORTANT REMINDER: This information is being provided for your general educational purposes only. You should always consult your attorney or other advisors for advice on how the law applies to specifics at your camp.**

**Recreational Marijuana**

On November 8, 2016 the citizens of Maine passed the Marijuana Legalization Act (MLA) which makes some use of marijuana for recreational purposes legal in Maine. Any use of marijuana is still illegal under federal law.

By its terms the MLA became effective on January 30, 2017. Its enactment is causing a flurry of Legislative activity as the Maine government works to catch up with the new world order. On January 27 the Legislature passed an emergency law amending the original law as, Public Law 2017, Chapter 1(PL2017, C1). Additional bills have been introduced and many will follow.

The MLA is 29 pages of fine print. Most of this new law deals with the who, how, when and what of growing, testing, transporting, advertising, selling and taxing recreational marijuana. There is also a lot about smoking/consuming marijuana in newly conceived "social clubs". These are not matters covered in this memo as explained below.

PL2017, C1 is an additional 7 pages of fine print principally postponing the effective date of most of MLA until February 1, 2018. By that time it is highly likely that there will be many changes, deletions and additions to the MLA. **However, some parts of the MLA did become effective on January 30, 2017.**

This memo deals with those parts of the MLA that are now effective from the perspective of camps as employers and "In Loco Parentis", subject to many changes as the law develops. As of the date of this memo:

Marijuana is defined as: "the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not."

Marijuana concentrate is defined as: "the resin extracted from any part of the plant genus cannabis and every compound, manufacture, salt, derivative, mixture or preparation from such resin, including hashish. In determining the weight of marijuana concentrate, the weight of any other ingredient combined with marijuana to prepare a marijuana product may not be included".

The **only** use of marijuana which is legal in Maine **now** is "personal use". Not until February 1, 2018 can marijuana be transferred by sale or will marijuana be available for sale from marijuana retail establishments and in social clubs.

Maine law as of now provides:

A person 21 years of age or older may:

A. Use, possess or transport recreational marijuana accessories and use, possess or transport up to 2 1/2 ounces of marijuana or a combination of marijuana and marijuana concentrate, which may include no more than 5 grams of marijuana concentrate;

B. Transfer or furnish, without remuneration, up to 2 1/2 ounces of marijuana or a combination of marijuana and marijuana concentrate, which may include no more than 5 grams of marijuana concentrate, and up to 6 immature plants or seedlings to a person who is 21 years of age or older;

C. Possess, grow, cultivate, process or transport up to 6 flowering marijuana plants, 12 immature plants and unlimited seedlings, and possess all the marijuana produced by the plants at the adult's residence;

The following provisions apply to the personal consumption of marijuana and marijuana concentrate.

A. A person 21 years of age or older may consume marijuana or marijuana concentrate only if that person is:

(1) In a private residence, including curtilage (*curtilage means the open area, usually fenced or screened, immediately adjacent to a residence necessary, convenient and habitually used for family purposes; think backyard, patio, etc.*); or

(2) On private property, not generally accessible by the public, and the person is explicitly permitted to consume marijuana or marijuana concentrate on the property by the owner of the property.

B. The operator of a vehicle on a public way or a passenger in the vehicle may not consume marijuana or marijuana concentrate.

C. A person may not consume marijuana or marijuana concentrate in a private residence or on private property used as a day care or baby-sitting service during the hours in which the residence or property is being operated as a day care or baby-sitting service.

D. A person may not consume marijuana or marijuana concentrate in a designated smoking area as provided under the Workplace Smoking Act of 1985.

A person who violates this subsection commits a civil violation for which a fine of not more than \$100 may be adjudged. This subsection may not be construed to shield any person from federal prosecution. This subsection may not be construed to allow any person to possess or consume marijuana on federal property.

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.”

In summary the law now provides that persons 21 years of age or older may possess and use a limited amount of marijuana and marijuana concentrate and grow and possess a limited number of marijuana plants. However, no one can use recreational marijuana on camp property because the property is generally accessible by the public and unless you have given them “explicit” permission to do so in a non-public area of camp(such as staff housing).

In addition, the new recreational marijuana law does not prevent a camp from prohibiting possession of marijuana on camp property just as a camp can prohibit alcoholic beverages from camp property.

### **Medical Marijuana**

Medical Marijuana has been legal in Maine since 2009 under the Medical Use of Marijuana Act (MUMA). That law provides that:

A person can possess and use 2 ½ ounces of marijuana and grow and possess up to 6 mature marijuana plants if she/he has a “debilitating medical condition” and “authorization” from physician or certified nurse practitioner for such use.

“Debilitating medical conditions” is defined as “a chronic or debilitating disease, medical condition or symptom”. There is a list of such conditions in the DHHS medical marijuana rules.

The “authorization” is good for one year and thereafter must be renewed.

From an employment standpoint the law provides the following:

An employer may not fire or refuse to hire an employee authorized to use medical marijuana unless the employment of a medical marijuana user is a violation of federal law or would cause the employer to lose a federal contract or funding.

An employer can prohibit the smoking of medical marijuana if all smoking is prohibited and signs are posted to that effect.

The law does not permit a person to undertake any task under the influence of medical marijuana when doing so would constitute negligence.

Medical marijuana may not be smoked in a public place or on public transportation.

No person may operate any kind of motor vehicle; car, van, truck, boat, plane, snow machine, ATV, etc. while under the influence of medical marijuana.

An employer may prohibit the ingestion of medical marijuana in any workplace or any employee from working while under the influence of medical marijuana. “Ingestion” means “take in” which I assume includes smoking as well as eating marijuana.