

# Maine releases draft rules for its recreational marijuana market. Read them here.

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By Penelope Overton Staff Writer

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More than two years after residents voted to legalize recreational marijuana, Maine released draft rules Monday that detail how the state's new adult-use market would be launched, monitored and regulated by the Office of Marijuana Policy.

The state released the rules in response to a Freedom of Access request by the Portland Press Herald.

The regulations, which were developed by the consulting firm of [Freedman & Koski](#) of Colorado, will not be implemented until they are presented at a public hearing and win approval from the Legislature. Other rules on testing labs and protocols will be adopted later, without legislative approval.

The state is also inviting the public to weigh in on its draft rules, which run 73 pages long, at its website.

"There has been significant public interest in the adult use rules being developed in Maine, which is why we invite the public to review these rules and offer their feedback," Erik Gundersen, director of the state's Office of Marijuana Policy, said Monday.

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Voters approved legalization of recreational marijuana in November 2016. While limited home grow was allowed within two months, the state has struggled to launch a commercial market, having to overcome a series of [legislative rewrites](#), [gubernatorial vetoes](#) and [contractual snafus](#).

National marijuana consultants estimate that Maine's market, once launched, could reach \$265 million a year and employ as many as 5,400 people. Gundersen says Maine will begin accepting recreational marijuana business license applications this year, providing the draft rules are passed before lawmakers go on summer break.

### **APPLICATION PROCESS**

The regulations lay out how would-be growers, retailers and manufacturers will obtain the state licenses needed to operate in the Maine recreational marijuana market: First, get a state conditional license, then the city or town's approval and finally, the state will grant a one-year active marijuana license.

The state will have 90 days to review the initial application, including the criminal history records

of applicants, before issuing a conditional license. The biggest hurdle facing the applicant probably will not be the state, however, but the local license conditions set by each individual host municipality.

Some communities, like South Portland, already have their adult-use license regulations in place, while others have been waiting for the state to issue its licensing regulations before deciding whether they will move ahead with adult-use marijuana within their borders. Communities that do nothing will remain marijuana free.

All applicants, including officers, directors, managers and general partners of a business entity, must be at least 21 years of age and reside in Maine, and a majority of shares, equity ownership, and membership or partnership interests must be owned by Mainers or businesses made up entirely of state residents.

The draft rules prohibit the creation of a corporate veil to side-step this rule through purchase options.

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Through June 2021, the state will give licenses only to people who have lived in Maine and filed income tax returns here for at least four years. Maine voters approved a law giving medical marijuana providers first crack at licenses, but lawmakers swapped that out for a residency preference instead.

Certain people are banned from getting a state marijuana license, including state employees or any law enforcement officers, anyone with a felony conviction for drug possession, distribution, manufacturing, cultivation or use of a controlled substance in the last 10 years, or those who have previously lost a marijuana license.

Felony convictions for marijuana crimes that would no longer be illegal under the new law don't count.

The department can refuse a license to an applicant with recent convictions for dishonesty or fraud, for violence or threats of violence and driving under the influence of drugs or alcohol. Applicants may offer evidence of rehabilitation and character references to prove their fitness for a license.

## **CULTIVATION**

The state will offer five tiers of cultivation licenses: nurseries of no more than 1,000 square feet of plant canopy, or grow space; a boutique level of no more than 30 mature plants or 500 square feet of canopy; and grow facilities capped at 2,000, 7,000 and 20,000 square feet of plant canopy.

Growers would have to pay an application fee, ranging from \$60 for a nursery applicant to \$500 for the larger operators, and an annual license fee, which could range from \$9 per mature marijuana plant for a boutique outdoor grower to \$30,000 for the largest growers.

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While testing rules will be announced later, the draft recreational rules on permissible sales suggest the state plans to require testing for residual solvents, harmful chemicals, molds and mildew, microbes like salmonella, pesticides, fungicides, insecticides and THC potency to allow for correct labeling.

#### **PRODUCT MANUFACTURING**

Licensed marijuana manufacturers must get certified by an industrial hygienist or professional engineer to ensure the safety and adequacy of the facility's storage, preparation, electrical, fire suppression and exhaust systems if using butane, propane, acetone and other inherently hazardous extraction methods.

Manufacturers are prohibited from making marijuana products, including edibles, designed to appeal to children, such as modeling them on products already popular with children or in the shape of an animal, vehicle, person or character.

A manufactured marijuana product, such as a chocolate bar or bag of lozenges, can have no more than 100 milligrams of THC, the marijuana compound that gets a consumer high, but no single serving can have more than 10 milligrams. Each serving must be marked by a state-approved marijuana symbol.

Under the draft rules, manufacturers must pay a \$250 applicant fee and a \$2,500 annual license fee.

#### **RETAIL**

Marijuana retail stores may not sell more than 2.5 ounces of usable marijuana, five grams of concentrate or edible marijuana with more than five grams of total THC content to a customer per day. Under the state rules, stores could not open before 7 a.m. or stay open past 9 p.m., but towns could shorten those hours.

A retailer also would have to pay a \$250 application fee and a \$2,500 annual license fee.

License holders of all kinds must meet electrical codes and state and federal environmental rules. Those who obtain a manufacturing license must comply with all kitchen-related health and safety standards of the municipality as well as the state food code and state fire code.

To transfer ownership of a marijuana business or move, an applicant would have to pay a \$250

fee.

All licensed marijuana businesses must have door and window locks, an alarm system monitored by a round-the-clock security company, and a raft of surveillance cameras that monitor exits, the marijuana grow, storage and disposal areas and all points of sale. The video must be stored for at least 90 days.

Outdoor grows must be enclosed in fencing at least 8 feet tall, or 6 feet tall topped by barbed wire.

The draft rules lay out a range of potential infractions the state could investigate, including a licensee's failure to comply with an operating plan on file, failure to properly report inventory in the state's track-and-trace system, unauthorized sales and failure to disclose business changes or pay taxes.

If found guilty, the department can fine a licensed business, suspend or revoke the business license, or seize its marijuana plants or products. Fines can run from \$10,000 for each minor violation, like selling discounted marijuana, to \$100,000 for a major violation, such as knowingly selling to minors.

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