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Legislative Document

No. 672

S.P. 234

In Senate, February 24, 2017

**An Act To Clarify a Municipality's Authority To Adopt and Enforce
Land Use Regulations for Marijuana Facilities**

Received by the Secretary of the Senate on February 22, 2017. Referred to the Committee on Marijuana Legalization Implementation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator BREEN of Cumberland.
Cosponsored by Representative: ESPLING of New Gloucester.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 30-A MRSA §4362** is enacted to read:

3 **§4362. Marijuana facilities**

4 **1. Definition.** As used in this section, "marijuana facility" includes, without
5 limitation:

6 A. A registered dispensary and a registered nonprofit dispensary as defined in Title
7 22, section 2422, subsection 10;

8 B. A facility owned or operated by a marijuana collective as defined in Title 22,
9 section 2422, subsection 1-A;

10 C. A facility owned or operated by a primary caregiver as defined in Title 22, section
11 2422, subsection 8-A or a registered primary caregiver as defined in Title 22, section
12 2422, subsection 11, when the facility houses a single primary caregiver whose
13 facility exceeds the municipality's definition of a home occupation, or by 2 or more
14 primary caregivers; and

15 D. A retail marijuana establishment as defined in Title 7, section 2442, subsection 36
16 and a retail marijuana social club as defined in Title 7, section 2442, subsection 39.

17 **2. Regulation.** A municipal ordinance or regulation may not conflict with or be
18 more restrictive than state law with respect to an individual's use, possession or
19 transportation of medical or recreational marijuana. Pursuant to and in accordance with
20 the authority provided under this chapter and municipal home rule authority not expressly
21 limited by this subsection, a municipality may adopt and enforce land use regulations that
22 apply to marijuana facilities that grow, process, package, distribute, sell or provide
23 medical or recreational marijuana in the same regulatory manner as any other activities
24 generating similar land use and compatibility effects.

25 **3. Scope.** This section may not be interpreted to limit the scope of municipal
26 authority to regulate recreational marijuana as governed by Title 7, chapter 417 or to
27 expand the scope of municipal authority to regulate medical marijuana as governed by
28 Title 22, chapter 558-C.

29 **SUMMARY**

30 This bill provides that a municipal ordinance or regulation may not conflict with or
31 be more restrictive than state law with respect to an individual's use, possession or
32 transportation of medical or recreational marijuana. It further provides that a
33 municipality may adopt and enforce land use regulations that apply to marijuana facilities
34 that grow, process, package, distribute, sell or provide medical or recreational marijuana
35 in the same regulatory manner as any other activities generating similar land use and
36 compatibility effects.