§802-A. Administrative or monetary penalties; appeals

1. Penalties. The office, in accordance with this section, on its own initiative or on complaint and after investigation, notification and the opportunity for a public hearing, may, by written order:

A. Impose an administrative penalty in accordance with this section for a license violation; [PL 2023, c. 679, Pt. B, §134 (NEW).]

B. Seize and destroy cannabis or cannabis products; and [PL 2023, c. 679, Pt. B, §134 (NEW).]

C. Suspend or revoke a license issued under this chapter for a license violation. [PL 2023, c. 679, Pt. B, §134 (NEW).]

For a first violation of any minor license violation as defined in subsection 2, paragraph C or for a first violation of this chapter or rules adopted pursuant to this chapter, the office may only provide technical assistance to the licensee and may not impose a penalty, suspend or revoke a license or seize and destroy cannabis or cannabis products.
[PL 2023, c. 679, Pt. B, §134 (NEW).]

2. License violation types. The following license violation types are established.

A. "Major license violation affecting public safety" means an intentional or knowing violation that imminently jeopardizes public health and safety or conduct that indicates a willful or reckless disregard for public health and safety. "Major license violation affecting public safety" is limited to:

(1) Intentionally or recklessly selling cannabis or cannabis products containing any scheduled drug as defined in Title 17-A, section 1101, subsection 11, except for any compounds naturally occurring in the cannabis plant;

(2) Intentionally or recklessly using prohibited agricultural chemicals that pose a threat to public health and concealing their use from the office, other licensees or consumers;

(3) Intentionally or knowingly treating or otherwise adulterating cannabis or cannabis products with a scheduled drug as defined in Title 17-A, section 1101, subsection 11, except for any compounds naturally occurring in the cannabis plant;

(4) Intentionally or knowingly destroying, damaging, altering, removing or concealing potential evidence of a violation under this paragraph or asking or encouraging another person to do so;

(5) Intentionally or knowingly purchasing cannabis plants, cannabis or cannabis products from outside the State, from a person not authorized pursuant to this chapter or from the illicit market;

(6) Three or more instances of a licensee failing to have on the premises at all times during business hours an individual identification card holder who is authorized to allow and cooperate with the office requests to inspect the premises;

(7) Intentionally or knowingly tampering with or interfering with mandatory testing processes, including sample collection or the auditing of test results; or

(8) Other intentional or knowing egregious conduct that imminently threatens public health and safety or conduct that shows a willful or reckless disregard for public health and safety that poses an imminent risk to public health and safety. [PL 2023, c. 679, Pt. B, §134 (NEW).]

B. "Major license violation" means a serious violation that does not imminently jeopardize public safety. "Major license violation" is limited to:

(1) Intentionally or recklessly misleading the office for the purposes of involving a person with a disqualifying drug offense in the operation of a cannabis establishment;

(2) Intentionally or knowingly diverting cannabis or cannabis products to the illicit market;

(3) Except as provided in paragraph A, subparagraphs (2) and (3), treating or otherwise adulterating cannabis or cannabis products with any chemical that alters the color, appearance, weight or smell of the cannabis or cannabis product or that increases its potency, toxicity or addictiveness in a manner not authorized under this chapter;

(4) Selling cannabis plants, cannabis or cannabis products to a person under 21 years of age by failing to take all necessary steps to verify age;

(5) Intentionally or knowingly making deliveries of adult use cannabis or adult use cannabis products to safe zones designated by a municipality pursuant to Title 30-A, section 3253;

(6) Allowing any individual under 21 years of age to engage in any cannabis-related activity;

(7) Cultivating cannabis plants for adult use in an amount that is equal to or greater than 150% of the total number of cannabis plants or plant canopy the licensee is authorized to cultivate under this chapter;

(8) Intentionally or knowingly misrepresenting any cannabis product to a consumer, licensee or the public, including:

(a) Its contents;

(b) Its testing results; or

(c) Its potency;

(9) Two or more instances of refusing to permit the office to inspect the licensed premises during the licensee's business hours;

(10) Intentionally or knowingly destroying, damaging, altering, removing or concealing potential evidence of a violation under this paragraph or asking or encouraging another person to do so;

(11) Selling or transferring cannabis plants, cannabis or cannabis products outside of the tracking system;

(12) Conduct that demonstrates a pattern of willful or reckless disregard for the tracking system requirements, sales tax obligations, excise tax obligations, mandatory testing obligations or facility requirements;

(13) Intentionally making false statements to the office in order to obtain or maintain a license; or

(14) Any violation in paragraph C that is a knowing violation that the licensee has committed 3 or more times. [PL 2023, c. 679, Pt. B, §134 (NEW).]

C. "Minor license violation" means a negligent violation. "Minor license violation" is limited to:

(1) Procuring or in any way aiding or assisting in procuring, furnishing, selling or delivering cannabis or cannabis products for or to a minor;

(2) Cultivating more cannabis plants for adult use than the licensee is authorized to cultivate under this chapter, but less than 150% of the total number of cannabis plants or plant canopy authorized;

(3) Supplying adulterated or misbranded cannabis or cannabis products;

(4) Intentionally or knowingly purchasing, receiving, selling or transferring any cannabis, cannabis plant or cannabis product that was fraudulently entered into the tracking system;

(5) Failing to request and obtain from the office an approval for a change in ownership or principals prior to making the change in ownership or principals;

(6) Subletting any portion of the licensed premises;

(7) Making representations or claims that the cannabis or cannabis product has curative or therapeutic effects;

(8) Not operating in accordance with operations, cultivation or facility plans of record filed with the office;

(9) Failing to have on the licensed premises at all times during business hours an individual identification card holder who is authorized to allow inspection and cooperate when the office requests to inspect the premises;

(10) Allowing consumption of cannabis on the licensed premises of a cannabis establishment, except as otherwise provided in this chapter; or

(11) A 2nd violation of any other requirement of this chapter or the rules adopted pursuant to this chapter that is not expressly listed in this subsection. [PL 2023, c. 679, Pt. B, §134 (NEW).]

[PL 2023, c. 679, Pt. B, §134 (NEW).]

3. Monetary penalties. The office may impose monetary penalties for a license violation of this chapter as follows:

A. Not more than $2,500 for each minor license violation; [PL 2023, c. 679, Pt. B, §134 (NEW).]

B. Not more than $10,000 for each major license violation; or [PL 2023, c. 679, Pt. B, §134 (NEW).]

C. Not more than $20,000 for each major license violation affecting public safety. [PL 2023, c. 679, Pt. B, §134 (NEW).]

Monetary penalties collected pursuant to this subsection must be credited to the General Fund.
[PL 2023, c. 679, Pt. B, §134 (NEW).]

4. Notification of violation. If, after an inspection or investigation by the office or a criminal justice agency, the office identifies a violation of this chapter or the rules adopted pursuant to this chapter, the office shall, within 5 business days of identifying the violation, provide written notification of the violation to the licensee. The licensee, within 5 days of receiving notification, shall provide the office with a plan of correction, if applicable, for the identified violation, including a time frame for correction. If, after a follow-up inspection, the office decides to impose a monetary penalty on the licensee, the office shall notify the licensee of the monetary penalty in a timely manner after the follow-up inspection. Notice under this subsection does not constitute final agency action.
[PL 2023, c. 679, Pt. B, §134 (NEW).]

5. Suspension. The office may suspend a license in accordance with this subsection.

A. The office may suspend a cannabis establishment license, for a period of up to one year, upon a finding of:

(1) A major license violation affecting public safety;

(2) A pattern of major license violations in a 30-month period; or

(3) A violation of subsection 2, paragraph B, subparagraph (7). [PL 2023, c. 679, Pt. B, §134 (NEW).]

B. A licensee whose license has been suspended pursuant to this subsection may not, for the duration of the period of suspension, engage in any activities relating to the operation of the

cannabis establishment the licensee is licensed to operate, except that a cultivation facility licensee may harvest any plants currently growing but may not start any new plants. [PL 2023, c. 679, Pt. B, §134 (NEW).]

C. The office may allow a transfer of license for a suspended license and may allow new owners to begin some or all operations prior to the end of the suspension. [PL 2023, c. 679, Pt. B, §134 (NEW).]

[PL 2023, c. 679, Pt. B, §134 (NEW).]

6. Revocation. The office may revoke a license in accordance with this subsection.

A. Upon a finding of any major license violation affecting public safety or upon a finding of a pattern of major license violations in a 60-month period, the office may permanently revoke the cannabis establishment license of the licensee found in violation. [PL 2023, c. 679, Pt. B, §134 (NEW).]

B. A licensee whose license has been revoked pursuant to this subsection shall cease all activities relating to the operation of the cannabis establishment. [PL 2023, c. 679, Pt. B, §134 (NEW).]

C. A license that is permanently revoked may not be transferred or renewed. [PL 2023, c. 679, Pt. B, §134 (NEW).]

[PL 2023, c. 679, Pt. B, §134 (NEW).]

7. Maine Administrative Procedure Act; final agency action; appeals. Except as otherwise provided in this chapter or in the rules adopted pursuant to this chapter, the imposition of a monetary penalty, suspension or revocation on a licensee by the office, including, but not limited to, the provision of notice and the conduct of hearings, is governed by the Maine Administrative Procedure Act. A final order of the office imposing a monetary penalty on a licensee or suspension or revocation of a license is a final agency action, as defined in Title 5, section 8002, subsection 4, and the licensee may appeal that final order to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

[PL 2023, c. 679, Pt. B, §134 (NEW).]

SECTION HISTORY

PL 2023, c. 679, Pt. B, §134 (NEW).

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