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H.270

An act relating to miscellaneous amendments to the adult-use and medical cannabis programs

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 7 V.S.A. § 843 is amended to read:

§ 843. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

* * *

~~(h) Advisory committee.~~

~~(1) There is an advisory committee established within the Board that shall be composed of members with expertise and knowledge relevant to the Board's mission. The Board shall collaborate with the advisory committee on recommendations to the General Assembly. The advisory committee shall be composed of the following 14 members:~~

~~(A) one member with an expertise in public health, appointed by the Governor;~~

~~(B) the Secretary of Agriculture, Food and Markets or designee;~~

~~(C) one member with an expertise in laboratory science or toxicology, appointed by the Governor;~~

~~(D) one member with an expertise in systemic social justice and equity issues, appointed by the Speaker of the House;~~

1 ~~(E) one member with an expertise in women and minority-owned~~
2 ~~business ownership, appointed by the Speaker of the House;~~

3 ~~(F) the Chair of the Substance Misuse Prevention Oversight and~~
4 ~~Advisory Council or designee;~~

5 ~~(G) one member with an expertise in the cannabis industry, appointed~~
6 ~~by the Senate Committee on Committees;~~

7 ~~(H) one member with an expertise in business management or~~
8 ~~regulatory compliance, appointed by the Treasurer;~~

9 ~~(I) one member with an expertise in municipal issues, appointed by~~
10 ~~the Senate Committee on Committees;~~

11 ~~(J) one member with an expertise in public safety, appointed by the~~
12 ~~Attorney General;~~

13 ~~(K) one member with an expertise in criminal justice reform,~~
14 ~~appointed by the Attorney General;~~

15 ~~(L) the Secretary of Natural Resources or designee;~~

16 ~~(M) the Chair of the Cannabis for Symptom Relief Oversight~~
17 ~~Committee or designee; and~~

18 ~~(N) one member appointed by the Vermont Cannabis Trade~~
19 ~~Association.~~

20 ~~(2) Initial appointments to the advisory committee as provided in~~
21 ~~subdivision (1) of this subsection (h) shall be made on or before July 1, 2021.~~

1 ~~(3) The Board may establish subcommittees within the advisory~~
2 ~~committee to accomplish its work.~~

3 ~~(4) Members of the advisory committee who are not otherwise~~
4 ~~compensated by the member's employer for attendance at meetings shall be~~
5 ~~entitled to per diem compensation and reimbursement of expenses as permitted~~
6 ~~under 32 V.S.A. § 1010 for not more than six meetings annually. These~~
7 ~~payments shall be made from the Cannabis Regulation Fund. [Repealed.]~~

8 Sec. 2. REPEAL; SUNSET OF CANNABIS CONTROL BOARD

9 2020 Acts and Resolves No. 164, Sec. 6e is repealed.

10 Sec. 3. 7 V.S.A. § 861 is amended to read:

11 § 861. DEFINITIONS

12 As used in this chapter:

13 * * *

14 (2) "Advertisement" means any written or verbal statement, illustration,
15 or depiction that ~~is calculated to induce~~ would reasonably have the effect of
16 inducing sales of cannabis or cannabis products, including any written, printed,
17 graphic, or other material; billboard, sign, or other outdoor display; other
18 periodical literature, publication, or in a radio or television broadcast; the
19 Internet; or in any other media. The term does not include:

1 (A) any label affixed to any cannabis or cannabis product or any
2 individual covering, carton, or other wrapper of that container that constitutes a
3 part of the labeling under provisions of these standards;

4 (B) any editorial or other reading material, such as a news release, in
5 any periodical or publication or newspaper for the publication of which no
6 money or valuable consideration is paid or promised, directly or indirectly, by
7 any cannabis establishment, and that is not written by or at the direction of the
8 licensee;

9 (C) any educational, instructional, or otherwise noncommercial
10 material that is not intended to induce sales and that does not propose an
11 economic transaction, but that merely provides information to the public in an
12 unbiased manner; or

13 (D) a sign attached to the premises of a cannabis establishment that
14 merely identifies the location of the cannabis establishment.

15 * * *

16 (8) “Cannabis establishment” means a cannabis cultivator, propagation
17 cultivator, wholesaler, product manufacturer, retailer, testing laboratory, or
18 integrated licensee licensed by the Board to engage in commercial cannabis
19 activity in accordance with this chapter.

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(8) Rules concerning propagators shall include:

(A) requirements for proper verification of age of customers;

(B) pesticides or classes of pesticides that may be used by propagators, provided that any rules adopted under this subdivision (8) shall comply with and shall be at least as stringent as the Agency of Agriculture, Food and Markets' Vermont Pesticide Control Regulations;

(C) standards for indoor cultivation of cannabis;

(D) procedures and standards for testing cannabis for contaminants, potency, and quality assurance and control;

(E) labeling requirements for cannabis sold to retailers and integrated licensees;

(F) regulation of visits to the establishments, including the number of visitors allowed at any one time and record keeping concerning visitors; and

(G) facility inspection requirements and procedures.

* * *

Sec. 5. 7 V.S.A. § 901 is amended to read:

§ 901. GENERAL PROVISIONS

(a) Except as otherwise permitted by law, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of cannabis or cannabis products without obtaining a license from the Board.

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~~(h)(1) The following records shall be exempt from public inspection and copying under the Public Records Act and shall be confidential:~~

~~(A) any record in an application for a license relating to security, public safety, transportation, or trade secrets, including information provided in an operating plan pursuant to subdivision 881(a)(1)(B) of this title; and~~

~~(B) any licensee record relating to security, public safety, transportation, trade secrets, or employees.~~

~~(2) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this subsection shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e). [Repealed.]~~

Sec. 6. 7 V.S.A. § 901a is added to read:

§ 901a. ACCESSIBILITY AND CONFIDENTIALITY OF LICENSING
AND DISCIPLINARY MATTERS

(a) It is the purpose of this section to protect the reputation, security practices, and trade secrets of licensees from undue public disclosure while securing the public's right to know of government licensing actions relevant to the public health, safety, and welfare.

(b) All meetings and hearings of the Board shall be subject to the Open Meeting Law as provided in 1 V.S.A. § 312.

1 (c) The following shall be exempt from public inspection and copying
2 under the Public Records Act and shall be kept confidential:

3 (1) records related to licensee security, safety, transportation, or trade
4 secrets, including information provided in an operating plan pursuant to
5 subdivision 881(a)(1)(B) of this title; and

6 (2) records related to investigations, except as provided in subsection (d)
7 of this section.

8 (d)(1) If a complaint or investigation results in formal action to revoke,
9 suspend, condition, reprimand, warn, fine, or otherwise to penalize a licensee
10 based on noncompliance with law or regulation, the case record, as defined by
11 3 V.S.A. § 809(e), shall be public.

12 (2) The Board shall prepare and maintain an aggregated list of all closed
13 investigations into misconduct or noncompliance from whatever source
14 derived. The information contained in the list shall be a public record. The list
15 shall contain the date, nature, and outcome of each complaint. The list shall
16 not contain the identity of the subject licensee unless formal action resulted, as
17 described in subdivision (1) of this subsection.

18 (e) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption
19 created in this section shall continue in effect and shall not be repealed through
20 operation of 1 V.S.A. § 317(e).

1 Sec. 7. 7 V.S.A. § 904 is amended to read:

2 § 904. CULTIVATOR LICENSE

3 (a) A cultivator licensed under this chapter may:

4 (1) cultivate, process, package, label, transport, test, and sell cannabis to
5 a licensed wholesaler, product manufacturer, retailer, integrated licensee, and
6 dispensary ~~and may~~;

7 (2) purchase and sell cannabis seeds and immature cannabis plants to
8 another licensed cultivator and propagation cultivator; and

9 (3) possess and sell cannabis products to a licensed wholesaler, product
10 manufacturer, retailer, integrated licensee, and dispensary.

11 * * *

12 Sec. 8. 7 V.S.A. § 904b is added to read:

13 § 904b. PROPAGATION CULTIVATOR LICENSE

14 (a) A propagation cultivator licensed under this section may:

15 (1) cultivate not more than 3,500 square feet of cannabis clones,
16 immature cannabis plants, or mature cannabis plants;

17 (2) test, transport, and sell cannabis clones and immature cannabis
18 plants to licensed cultivators; and

19 (3) test, transport, and sell cannabis seeds that meet the federal
20 definition of hemp to a licensed cultivator or retailer or to the public.

1 (b) A licensed propagation cultivator shall not cultivate mature cannabis
2 plants for the purpose of producing, harvesting, transferring, or selling
3 cannabis flower for or to any person.

4 Sec. 9. 7 V.S.A. § 905 is amended to read:

5 § 905. WHOLESALER LICENSE

6 A wholesaler licensed under this chapter may:

7 (1) purchase cannabis ~~from a licensed cultivator and integrated licensee,~~
8 and cannabis products from a licensed ~~product manufacturer, integrated~~
9 ~~licensee, and dispensary~~ cannabis establishment;

10 (2) transport, process, package, and sell cannabis and cannabis products
11 to a licensed ~~product manufacturer, retailer, integrated licensee, and dispensary~~
12 cannabis establishment; and

13 (3) sell cannabis seeds or immature cannabis plants to a licensed
14 cultivator.

15 Sec. 10. 7 V.S.A. § 906 is amended to read:

16 § 906. PRODUCT MANUFACTURER LICENSE

17 A product manufacturer licensed under this chapter may:

18 (1) purchase cannabis ~~from a licensed cultivator, wholesalers, or~~
19 ~~integrated licensee,~~ and cannabis products from a licensed ~~wholesaler, product~~
20 ~~manufacturer, integrated licensee, and dispensary~~ cannabis establishment;

1 (2) use cannabis and cannabis products to produce cannabis products;

2 and

3 (3) transport, process, package, and sell cannabis products to a licensed
4 ~~wholesaler, product manufacturer, retailer, integrated licensee, and dispensary~~
5 cannabis establishment.

6 Sec. 11. 7 V.S.A. § 907 is amended to read:

7 § 907. RETAILER LICENSE

8 (a) A retailer licensed under this chapter may:

9 (1) purchase cannabis ~~from a licensed cultivator, wholesaler, or~~
10 ~~integrated licensee,~~ and cannabis products from a licensed ~~wholesaler, product~~
11 ~~manufacturer, integrated licensee, and dispensary~~ cannabis establishment; and

12 (2) transport, possess, package, and sell cannabis and cannabis products
13 to the public for consumption off the registered premises or for cultivation.

14 * * *

15 Sec. 12. 7 V.S.A. § 910 is amended to read:

16 § 910. CANNABIS ESTABLISHMENT FEE SCHEDULE

17 The following fees shall apply to each person or product licensed by the

18 Board:

19 * * *

20 (3) Manufacturers.

1 (A) Manufacturer tier 1. Manufacturers that process and manufacture
2 cannabis in order to produce cannabis products without using solvent-based
3 extraction and not more than ~~\$10,000.00~~ \$50,000.00 per year in cannabis
4 products based on the manufacturer's total annual sales in cannabis products
5 shall be assessed an annual licensing fee of \$750.00.

6 * * *

7 (7) Propagation cultivators. Propagation cultivators shall be assessed an
8 annual licensing fee of \$500.00.

9 (8) Employees. Cannabis establishments licensed by the Board shall be
10 assessed an annual licensing fee of \$50.00 for each employee.

11 ~~(8)~~(9) Products. Cannabis establishments licensed by the Board shall be
12 assessed an annual product licensing fee of \$50.00 for every type of cannabis
13 and cannabis product that is sold in accordance with this chapter.

14 ~~(9)~~(10) Local licensing fees. Cannabis establishments licensed by the
15 Board shall be assessed an annual local licensing fee of \$100.00 in addition to
16 each fee assessed under subdivisions (1)–~~(6)~~(7) of this section. Local licensing
17 fees shall be distributed to the municipality in which the cannabis
18 establishment is located pursuant to section 846(c) of this title.

19 ~~(10)~~(11) One-time fees.

20 (A) All applicants for a cannabis establishment license shall be
21 assessed an initial one-time application fee of \$1,000.00.

1 (B) An applicant may choose to be assessed an initial one-time
2 intent-to-apply fee of \$500.00. If the applicant subsequently seeks a license
3 within one year after paying the intent-to-apply fee, the initial one-time
4 application fee of \$1,000.00 shall be reduced by \$500.00.

5 Sec. 13. 7 V.S.A. chapter 35 is amended to read:

6 CHAPTER 35. MEDICAL CANNABIS REGISTRY

7 § 951. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (8) “Qualifying medical condition” means:

11 (A) cancer, multiple sclerosis, positive status for human
12 immunodeficiency virus, acquired immune deficiency syndrome, glaucoma,
13 Crohn’s disease, Parkinson’s disease, post-traumatic stress disorder, or the
14 treatment of these conditions, if the disease or the treatment results in severe,
15 persistent, and intractable symptoms; or

16 (B) ~~post traumatic stress disorder, provided the Department confirms~~
17 ~~the applicant is undergoing psychotherapy or counseling with a licensed~~
18 ~~mental health care provider; or~~

19 (C) a disease or medical condition or its treatment that is chronic,
20 debilitating, and produces one or more of the following intractable symptoms:
21 cachexia or wasting syndrome, chronic pain, severe nausea, or seizures.

1 * * *

2 § 952. REGISTRY

3 * * *

4 (b) A person who is a registered patient or a registered caregiver on behalf
5 of a patient may:

6 (1) Cultivate not more than ~~two~~ six mature and ~~seven~~ 12 immature
7 cannabis plants. Any cannabis harvested from the plants shall not count
8 toward the two-ounce possession limit in subdivision (2) of this subsection,
9 provided it is stored in an indoor facility on the property where the cannabis
10 was cultivated and reasonable precautions are taken to prevent unauthorized
11 access to the cannabis.

12 (2) Possess not more than two ounces of cannabis.

13 (3) Purchase cannabis and cannabis products at a licensed medical
14 cannabis dispensary. Pursuant to chapter 37 of this title, a dispensary may
15 offer goods and services that are not permitted at a cannabis establishment
16 licensed pursuant to chapter 33 of this title.

17 * * *

18 § 954. CAREGIVERS

19 (a) Pursuant to rules adopted by the Board, a person may register with the
20 Board as a caregiver of a registered patient to obtain the benefits of the
21 Registry as provided in section 952 of this title.

1 (b)(1) The Board shall ~~adopt rules that set forth standards for determining~~
2 ~~whether an applicant should be denied a caregiver card because of his or her~~
3 ~~criminal history record. An applicant shall not be denied solely on the basis of~~
4 ~~a criminal conviction that is not listed in 13 V.S.A. chapter 25 or 28~~ conduct a
5 name and date of birth Vermont criminal conviction record background check
6 and obtain information from the Child Protection Registry maintained by the
7 Department for Children and Families and from the Vulnerable Adult Abuse,
8 Neglect, and Exploitation Registry maintained by the Department of
9 Disabilities, Aging, and Independent Living (collectively, the Registries) for
10 any person who applies to be a caregiver. The Departments for Children and
11 Families and of Disabilities, Aging, and Independent Living shall adopt rules
12 governing the process for obtaining information from the Registries and for
13 disseminating and maintaining records of that information under this
14 subsection.

15 (2) ~~The Board shall obtain from the Vermont Crime Information Center~~
16 ~~a copy of the caregiver applicant's fingerprint based Vermont criminal history~~
17 ~~records, out of state criminal history records, and criminal history records from~~
18 ~~the Federal Bureau of Investigation.~~

19 (c) The Board shall adopt rules that set forth standards for determining
20 whether an applicant should be denied a ~~cannabis establishment license~~

1 caregiver card because of ~~his or her criminal history record~~ the applicant's
2 criminal history record or status on either Registry.

3 (d)(1) Except as provided in subdivision (2) of this subsection, a caregiver
4 ~~shall serve only one patient~~ may serve not more than two patients at a time,
5 and a patient shall have only one registered caregiver at a time. A patient may
6 serve as a caregiver for one other patient.

7 (2) A patient who is under 18 years of age may have two caregivers.
8 Additional caregivers shall be at the discretion of the Board.

9 § 955. REGISTRATION; FEES

10 (a) A registration card shall expire one year after the date of issuance for
11 patients with a qualifying medical condition of chronic pain and the caregivers
12 who serve those patients. For all other patients and the caregivers who serve
13 those patients, a registration card shall expire five years after the date of
14 issuance. A patient or caregiver may renew the card according to protocols
15 adopted by the Board.

16 (b) The Board shall charge and collect a \$50.00 ~~annual~~ registration and
17 renewal fee for patients and caregivers. Fees shall be deposited in the
18 Cannabis Regulation Fund as provided in section 845 of this title.

19 § 956. RULEMAKING

1 The Board shall adopt rules for the administration of this chapter. ~~No rule~~
2 ~~shall be more restrictive than any rule adopted by the Department of Public~~
3 ~~Safety pursuant to 18 V.S.A. chapter 86.~~

4 Sec. 14. 7 V.S.A. § 1002 is amended to read:

5 § 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

6 (a)(1) No person shall engage in the retail sale of tobacco products, tobacco
7 substitutes, or tobacco paraphernalia in ~~his or her~~ the person's place of
8 business without a tobacco license obtained from the Division of Liquor
9 Control.

10 (2) No person shall engage in the retail sale of tobacco substitutes
11 without also obtaining a tobacco substitute endorsement from the Division of
12 Liquor Control.

13 (3) Tobacco licenses and tobacco substitute endorsements shall expire at
14 midnight, April 30, of each year.

15 (4) This subsection shall not apply to the retail sale of tobacco
16 paraphernalia by a cannabis establishment licensed in accordance with chapter
17 33 of this title or a medical cannabis dispensary licensed in accordance with
18 chapter 37 of this title.

19 * * *

20 Sec. 15. EFFECTIVE DATE

21 This act shall take effect on July 1, 2023.