

## Suggested Changes for H.490

- 1) Permit chemical extraction by licensed manufacturers, not just medical dispensaries.

### § 4230i. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized either as a dispensary pursuant to ~~a registration issued by the Department of Public Safety pursuant to~~ chapter 86 of this title or as a manufacturer pursuant to Chapter 87 of this Title.

- 2) Exempt the co-op harvest from the possession limits (for both the assignor and assignee), under same restrictions as would be permitted under H.170.

### Sec. 7. ASSIGNATION OF CULTIVATION RIGHTS

\*\*\*

(f) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one ounce possession limit in section 4230a of this title provided it is stored either by the assignee in a secure indoor facility on the property where the marijuana was cultivated or by the assignor in a secure indoor facility on the assignor's property.

- 3) Adjust definition of “enclosed, locked facility” so that the buildings housing indoors facilities don’t need to be hidden from public view.

### § 4501. DEFINITIONS

(9) “Enclosed, locked facility” shall be either indoors or outdoors (outdoors facilities shall, not be visible to the public), and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

- 4) Clarify in 4513(c)(2) that only the limit on the *number* of licenses is lifted in 2019, not the *size* limitations, otherwise there would be no statutory cap on the size of any single cultivator, and smaller growers would be driven out of the market.

(2) On or after July 1, 2019, the limitations on the number of licenses in subdivision (1) of this subsection shall not apply and the Agency shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed prior to July

1, 2019 may apply to the Agency to modify its license to expand its cultivation space.

5) Allow cultivators, wholesalers, and manufacturers to sell to medical dispensaries, and allow wholesalers to sell to other wholesalers.

§4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed wholesaler, product manufacturer, ~~or~~ retailer, or dispensary.

§4526. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

- (1) purchase marijuana from licensed cultivators and marijuana-infused products from licensed product manufacturers; and
- (2) transport, possess, and sell marijuana and marijuana-infused products to licensed product manufacturers, wholesalers, ~~and~~ retailers, and dispensaries.

§ 4527. PRODUCT MANUFACTURER LICENSE

A product manufacturer licensed under this chapter may:

- (1) purchase marijuana from licensed cultivators and wholesalers and marijuana-infused products from licensed wholesalers and product manufacturers;
- (2) use marijuana and marijuana-infused products to produce marijuana-infused products; and
- (3) transport, possess, and sell marijuana-infused products to licensed wholesalers, product manufacturers, ~~and~~ retailers, and dispensaries.

6) Testing labs should be authorized to test MIP's, not just "raw" marijuana.

§ 4529. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana and marijuana-infused product samples obtained from a licensed marijuana establishment.

7) Marketing expenses should be excluded from deductibility under "Vermont Income" (as already provided in definition of "Taxable Income").

§ 5811. DEFINITIONS

\*\*\*

(21) "Taxable income" means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

\* \* \*

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, except for marketing expenses, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. §280E.

8) Adjust wholesale tax so that below-market transfers by affiliates are taxed at average market price, and rate change recommendations are made by Agency of Agriculture (the primary regulator).

## CHAPTER 207. MARIJUANA TAXES

### Subchapter 1. Wholesale Tax

#### § 7901. TAX IMPOSED

(a) There is imposed a marijuana wholesale tax equal to 15 percent of the sales price on each sale of marijuana and marijuana-infused product by a wholesaler, product manufacturer, or cultivator to a retailer located in this State. However, where the seller and buyer in such transaction are affiliated (as such term is defined in 18 V.S.A. §4501), then in no case shall the tax be less than 15 percent of the average market price of marijuana or marijuana infused product determined in accordance with subsection 7901(d) of this chapter. The tax imposed by this subchapter shall be paid by the wholesaler, product manufacturer, or cultivator.

(b) Every year, on or before January 15, the Agency of Agriculture and Markets, in consultation with the Department of Public Safety, ~~in consultation with and~~ the Department of Taxes, shall report to the General Assembly with recommendations for any adjustment to the rate of tax under this section which would help achieve market and pricing stability, including by combatting unlicensed sales of marijuana in this State.

(c) The following sales shall be exempt from the tax imposed under this section:  
(1) sales under any circumstances in which the State is without power to impose the tax; and  
(2) sales made to any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

(d) Twice each year, on or before January 15 and July 15, the Agency of Agriculture and Markets, in consultation with the Department of Taxes, will calculate and publish a report setting forth the average market prices for sales of marijuana and marijuana-infused products sold in this state by wholesalers, product manufacturers, or cultivators to retailers and dispensaries, solely in transactions where the seller and buyer are not affiliated. Such average market prices shall be used to calculate the minimum tax pursuant to subsection (a) above until such time as the next report is published pursuant to this subsection.

9) The minimum retail tax written should be for sales up to the stated quantities, rather than “when sold in those quantities”, otherwise sellers will avoid the minimum tax by selling at slightly below or above.

§ 7921 . TAX IMPOSED

(a) There is imposed a marijuana retail tax equal to 10 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana or marijuana-infused products in this State. However, in no case shall the tax be less than ~~\$12.00 per ounce of marijuana, or~~ \$4.00 per sale of marijuana in quantities of up to one-quarter of an ounce, or \$12 per sale of marijuana in quantities of more than one-quarter of an ounce but up to and including one ounce of marijuana, when sold in those quantities, or \$2.00 per unit of marijuana-infused products, when sold in that form. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

10) Adjust definition of “control” so that franchise arrangements cannot be used to get around anti-monopolization limits:

§ 4501. DEFINITIONS

(6) “Controls,” “is controlled by,” and “under common control” means the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract (including, without limitation, franchise agreements), or otherwise. A person who directly or beneficially owns ten percent or more equity interest, or the equivalent thereof, of another person, shall be deemed to control the person.