

1 H.490

2 Introduced by Representatives Young of Glover, Buckholz of Hartford, Burke
3 of Brattleboro, Carr of Brandon, Colburn of Burlington,
4 Copeland-Hanzas of Bradford, Gonzalez of Winooski,
5 Kitzmiller of Montpelier, Mrowicki of Putney, O'Sullivan of
6 Burlington, Rachelson of Burlington, Sharpe of Bristol, and
7 Troiano of Stannard

8 Referred to Committee on

9 Date:

10 Subject: Health; regulated drugs; marijuana

11 Statement of purpose of bill as introduced: This bill proposes to establish an
12 adult use commercial marijuana regulatory system. The Agency of
13 Agriculture, Food and Markets would license cultivators, wholesalers, product
14 manufacturers, retailers, and testing laboratories. The bill also establishes a
15 structure for taxing commercial sales. It creates a wholesale tax equal to
16 15 percent of the wholesale sales price, a retail tax equal to 10 percent of the
17 retail sales price, and a local tax of 2.5 percent of the retail sales price. The
18 revenue from these taxes goes to pay for the regulation of marijuana sales, to
19 the General Fund, and to the towns in which the sales are made. The act also
20 allows marijuana cultivation cooperatives whereby up to 10 members may

1 assign their right to grow marijuana to a co-op that will manage the cultivation.

2 The marijuana cultivated at the co-op is for the members only.

3 An act relating to the regulation of commercial cultivation and sale of
4 marijuana

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

6 Sec. 1. LEGISLATIVE INTENT

7 The intent of this act is to establish a comprehensive regulatory and revenue
8 system for an adult-use marijuana market that, when compared to the current
9 illegal marijuana market, increases public safety and reduces harm to public
10 health.

11 Sec. 2. LEGISLATIVE FINDINGS

12 The General Assembly finds the following:

13 (1) According to a 2014 study commissioned by the administration and
14 conducted by the RAND Corporation, marijuana is commonly used in
15 Vermont with an estimated 80,000 residents having used marijuana in the last
16 month.

17 (2) For over 75 years, Vermont has debated the issue of marijuana
18 regulation and amended its marijuana laws numerous times in an effort to
19 protect public health and safety. Criminal penalties for possession rose in the
20 1940s and '50s to include harsh mandatory minimums, dropped in the 1960s

1 and '70s, rose again in the 1980s and '90s, and dropped again in the 2000s. A
2 study published in the American Journal of Public Health found that no
3 evidence supports the claim that criminalization reduces marijuana use.

4 (3) Vermont seeks to take a new comprehensive approach to marijuana
5 use and abuse that incorporates prevention, education, regulation, treatment,
6 and law enforcement which results in a net reduction in public harm and an
7 overall improvement in public safety. Responsible use of marijuana by adults
8 21 years of age or older should be treated the same as responsible use of
9 alcohol, the abuse of either treated as a public health matter, and irresponsible
10 use of either that causes harm to others sanctioned with penalties.

11 (4) Policymakers recognize legitimate federal concerns about marijuana
12 reform and seek through this legislation to provide better control of access and
13 distribution of marijuana in a manner that prevents:

14 (A) distribution of marijuana to persons under 21 years of age;

15 (B) revenue from the sale of marijuana going to criminal enterprises;

16 (C) diversion of marijuana to states that do not permit possession of
17 marijuana;

18 (D) State-authorized marijuana activity from being used as a cover or
19 pretext for the trafficking of other illegal drugs or activity;

20 (E) violence and the use of firearms in the cultivation and distribution
21 of marijuana;

1 (F) drugged driving and the exacerbation of any other adverse public
2 health consequences of marijuana use;

3 (G) growing of marijuana on public lands and the attendant public
4 safety and environmental dangers posed by marijuana production on public
5 lands; and

6 (H) possession or use of marijuana on federal property.

7 Sec. 3. MARIJUANA YOUTH EDUCATION AND PREVENTION

8 (a)(1) Relying on lessons learned from tobacco and alcohol prevention
9 efforts, the Department of Health, in collaboration with the Department of
10 Public Safety, the Agency of Education, and the Governor's Highway Safety
11 Program, shall develop and administer an education and prevention program
12 focused on use of marijuana by youths under 25 years of age. In so doing, the
13 Department of Health shall consider at least the following:

14 (A) Community- and school-based youths and family-focused
15 prevention initiatives that strive to:

16 (i) expand the number of school-based grants for substance abuse
17 services to enable each supervisory union to develop and implement a plan for
18 comprehensive substance abuse prevention education in a flexible manner that
19 ensures the needs of individual communities are addressed;

1 (ii) improve the Screening, Brief Intervention and Referral to
2 Treatment (SBIRT) practice model for professionals serving youths in schools
3 and other settings; and

4 (iii) expand family education programs.

5 (B) An informational and counter-marketing campaign using a public
6 website, printed materials, mass and social media, and advertisements for the
7 purpose of preventing underage marijuana use.

8 (C) Education for parents and health care providers to encourage
9 screening for substance use disorders and other related risks.

10 (D) Expansion of the use of SBIRT among the State's pediatric
11 practices and school-based health centers.

12 (E) Strategies specific to youths who have been identified by the
13 Youth Risk Behavior Survey as having an increased risk of substance abuse.

14 (2) On or before March 15, 2018, the Department of Health shall adopt
15 rules to implement the education and prevention program described in this
16 subsection and implement the program on or before September 15, 2018.

17 (b) The Department of Health shall include questions in its biannual Youth
18 Risk Behavior Survey to monitor the use of marijuana by youths in Vermont
19 and to understand the source of marijuana used by this population.

1 (c) Any data collected by the Department of Health on the use of marijuana
2 by youths shall be maintained and organized in a manner that enables the
3 pursuit of future longitudinal studies.

4 Sec. 4. 18 V.S.A. § 4230e is added to read:

5 § 4230e. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER
6 21 YEARS OF AGE

7 (a) No person shall:

8 (1) sell or furnish marijuana to a person under 21 years of age; or

9 (2) knowingly enable the consumption of marijuana by a person under
10 21 years of age.

11 (b) As used in this section, “enable the consumption of marijuana” means
12 creating a direct and immediate opportunity for a person to consume
13 marijuana.

14 (c) Except as provided in subsection (d) of this section, a person who
15 violates subsection (a) of this section shall be imprisoned not more than two
16 years or fined not more than \$2,000.00, or both.

17 (d) An employee of a marijuana establishment licensed pursuant to chapter
18 87 of this title, who, in the course of employment, violates subdivision (a)(1)
19 of this section during a compliance check conducted by a law enforcement
20 officer shall be:

1 (1) assessed a civil penalty of not more than \$100.00 for the first
2 violation and a civil penalty of not less than \$100.00 nor more than \$500.00 for
3 a second violation that occurs more than one year after the first violation; and

4 (2) subject to the criminal penalties provided in subsection (c) of this
5 section for a second violation within a year of the first violation, and for a third
6 or subsequent violation within three years of the first violation.

7 (e) An employee alleged to have committed a violation of subsection (d) of
8 this section may plead as an affirmative defense that:

9 (1) the purchaser exhibited and the employee carefully viewed
10 photographic identification that indicated the purchaser to be 21 years of age or
11 older;

12 (2) an ordinary prudent person would believe the purchaser to be of
13 legal age to make the purchase; and

14 (3) the sale was made in good faith, based upon the reasonable belief
15 that the purchaser was of legal age to purchase marijuana.

16 (f) A person who violates subsection (a) of this section, where the person
17 under 21 years of age, while operating a motor vehicle on a public highway,
18 causes death or serious bodily injury to himself or herself or to another person
19 as a result of the violation, shall be imprisoned not more than five years or
20 fined not more than \$10,000.00, or both.

1 (g) This section shall not apply to:

2 (1) A person under 21 years of age who sells or furnishes marijuana to a
3 person under 21 years of age or who knowingly enables the consumption of
4 marijuana by a person under 21 years of age. Possession of an ounce or less of
5 marijuana by a person under 21 years of age shall be punished in accordance
6 with sections 4230b–4230d of this title and dispensing or selling marijuana
7 shall be punished in accordance with sections 4230 and 4237 of this title.

8 (2) A dispensary registered pursuant to chapter 86 of this title.

9 Sec. 5. 18 V.S.A. § 4230g is added to read:

10 § 4230g. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER
11 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

12 (a) A spouse, child, guardian, employer, or other person who is injured in
13 person, property, or means of support by a person under 21 years of age who is
14 impaired by marijuana, or in consequence of the impairment by marijuana of
15 any person under 21 years of age, shall have a right of action in his or her own
16 name, jointly or severally, against any person or persons who have caused in
17 whole or in part such impairment by selling or furnishing marijuana to a person
18 under 21 years of age.

19 (b) Upon the death of either party, the action and right of action shall
20 survive to or against the party's executor or administrator. The party injured or
21 his or her legal representatives may bring either a joint action against the

1 impaired person under 21 years of age and the person or persons who sold or
2 furnished the marijuana, or a separate action against either or any of them.

3 (c) An action to recover for damages under this section shall be
4 commenced within two years after the cause of action accrues, and not after.

5 (d) In an action brought under this section, evidence of responsible actions
6 taken or not taken is admissible if otherwise relevant. Responsible actions may
7 include a marijuana establishment's instruction to employees as to laws
8 governing the sale of marijuana to adults 21 years of age or older and
9 procedures for verification of age of customers.

10 (e) A defendant in an action brought under this section has a right of
11 contribution from any other responsible person or persons, which may be
12 enforced in a separate action brought for that purpose.

13 (f)(1) Except as provided in subdivision (2) of this subsection, nothing in
14 this section shall create a statutory cause of action against a social host for
15 furnishing marijuana to any person without compensation or profit. However,
16 this subdivision shall not be construed to limit or otherwise affect the liability
17 of a social host for negligence at common law.

18 (2) A social host who knowingly furnishes marijuana to a person under
19 21 years of age may be held liable under this section if the social host knew, or
20 a reasonable person in the same circumstances would have known, that the
21 person who received the marijuana was under 21 years of age.

1 (3) As used in this subsection, “social host” means a person who is not
2 the holder of a marijuana establishment license and is not required under
3 chapter 87 of this title to hold a marijuana establishment license.

4 Sec. 6. 18 V.S.A. § 4230i is added to read:

5 § 4230i. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE

6 PROHIBITED

7 (a) No person shall manufacture concentrated marijuana by chemical
8 extraction or chemical synthesis using butane or hexane unless authorized as a
9 dispensary pursuant to a registration issued by the Department of Public Safety
10 pursuant to chapter 86 of this title.

11 (b) A person who violates subsection (a) of this section shall be imprisoned
12 not more than two years or fined not more than \$2,000.00, or both. A person
13 who violates subsection (a) of this section and causes serious bodily injury to
14 another person shall be imprisoned not more than five years or fined not more
15 than \$5,000.00, or both.

16 Sec. 7. ASSIGNATION OF CULTIVATION RIGHTS

17 (a) An individual who is 21 years of age or older may assign all or some of
18 his or her rights to cultivate up to two mature and seven immature marijuana
19 plants to another individual to cultivate the marijuana on his or her behalf for a
20 period of time, with or without compensation. The assignee shall not cultivate
21 for more than ten individuals. The assignee shall distribute any marijuana

1 harvested from the plants to the assignor or other assignors for whom the
2 assignee cultivates in accordance with an agreement by the parties.

3 (b) The number of plants the assignor cultivates in accordance with this
4 section shall not affect his or her rights to cultivate up to two mature and seven
5 immature marijuana plants for his or her personal use in compliance with this
6 chapter.

7 (c) An individual in possession of a number of plants in excess of the
8 limitations provided in this section or elsewhere in this chapter shall be subject
9 to the civil and criminal penalties provided in this chapter.

10 (d) Prior to cultivating marijuana plants pursuant to this section, an
11 individual shall register with the Agency of Agriculture, Food and Markets and
12 comply with basic recordkeeping and inspection obligations as required by the
13 Agency.

14 (e) The Agency of Agriculture, Food and Markets may adopt rules in
15 accordance with this section.

16 Sec. 8. 18 V.S.A. chapter 87 is added to read:

17 CHAPTER 87. MARIJUANA ESTABLISHMENTS

18 Subchapter 1. General Provisions

19 § 4501. DEFINITIONS

20 As used in this chapter:

1 (1) “Affiliate” means a person that directly or indirectly owns or
2 controls, is owned or controlled by, or is under common ownership or control
3 with, another person.

4 (2) “Agency” means the Agency of Agriculture, Food and Markets.

5 (3) “Applicant” means a person that applies for a license to operate a
6 marijuana establishment pursuant to this chapter.

7 (4) “Child care facility” means a child care facility or family day care
8 home licensed or registered under 33 V.S.A. chapter 35.

9 (5) “Commissioner” means the Commissioner of Public Safety.

10 (6) “Controls,” “is controlled by,” and “under common control” mean
11 the power to direct, or cause the direction or management and policies of a
12 person, whether through the direct or beneficial ownership of voting securities,
13 by contract, or otherwise. A person who directly or beneficially owns ten
14 percent or more equity interest, or the equivalent thereof, of another person,
15 shall be deemed to control the person.

16 (7) “Department” means the Department of Public Safety.

17 (8) “Dispensary” means a person registered under section 4474e of this
18 title that acquires, possesses, cultivates, manufactures, transfers, transports,
19 supplies, sells, or dispenses marijuana, marijuana-infused products, and
20 marijuana-related supplies and educational materials for or to a registered

1 patient who has designated it as his or her center and to his or her registered
2 caregiver for the registered patient's use for symptom relief.

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

7 (A) Employees, agents, or owners of the cultivator, all of whom shall
8 be 21 years of age or older.

9 (B) Government employees performing their official duties.

10 (C) Contractors performing labor that does not include marijuana
11 cultivation, packaging, or processing. Contractors shall be accompanied by an
12 employee, agent, or owner of the cultivator when they are in areas where
13 marijuana is being grown, processed, or stored.

14 (D) Registered employees of other cultivators, members of the
15 media, elected officials, and other individuals 21 years of age or older visiting
16 the facility, provided they are accompanied by an employee, agent, or owner of
17 the cultivator.

18 (10) "Financier" means a person, other than a financial institution as
19 defined in 8 V.S.A. § 11101, that makes an equity investment, a gift, loan, or
20 otherwise provides financing to a person with the expectation of a financial
21 return.

1 (11) “Holding company” means a corporation or other legal entity
2 whose principal business is the ownership, supervision, or management of one
3 or more operating subsidiaries or affiliates.

4 (12) “Marijuana” shall have the same meaning as provided in section
5 4201 of this title.

6 (13) “Marijuana cultivator” or “cultivator” means a person registered
7 with the Agency to engage in commercial cultivation of marijuana in
8 accordance with this chapter.

9 (14) “Marijuana establishment” means a marijuana cultivator,
10 wholesaler, product manufacturer, retailer, or testing laboratory licensed by the
11 Agency to engage in commercial marijuana activity in accordance with this
12 chapter.

13 (15) “Marijuana-infused products” means products that are composed of
14 marijuana and other ingredients and are intended for use or consumption,
15 including tinctures, oils, solvents, and edible or potable goods. Only the
16 portion of a marijuana-infused product that is attributable to marijuana shall
17 count toward the possession limits.

18 (16) “Marijuana product manufacturer” or “product manufacturer”
19 means an entity registered pursuant to this chapter to manufacture, prepare, and
20 package marijuana-infused products and hashish, and to sell marijuana-infused

1 products and hashish to a licensed retailer, wholesaler, or another product
2 manufacturer.

3 (17) “Marijuana retailer” or “retailer” means a person licensed by the
4 Agency to sell marijuana to consumers for off-site consumption in accordance
5 with this chapter.

6 (18) “Marijuana testing laboratory” or “testing laboratory” means a
7 person licensed by the Agency to test marijuana for cultivators, product
8 manufacturers, wholesalers, and retailers in accordance with this chapter.

9 (19) “Marijuana wholesaler” or “wholesaler” means a person licensed
10 by the Agency to buy marijuana from cultivators and marijuana-infused
11 products from product manufacturers and transport, possess, and sell marijuana
12 and marijuana-infused products to licensed product manufacturers and
13 retailers.

14 (20) “Person” shall include any natural person; corporation;
15 municipality; the State of Vermont or any department, agency, or subdivision
16 of the State; and any partnership, unincorporated association, or other legal
17 entity.

18 (21) “Plant canopy” means the square footage dedicated to live plant
19 production and does not include areas such as office space or areas used for the
20 storage of fertilizers, pesticides, or other products.

1 (22) “Principal” means an individual vested with the authority to
2 conduct, manage, or supervise the business affairs of a person, and may
3 include the president, vice president, secretary, treasurer, manager, or similar
4 executive officer of a business; a director of a corporation, nonprofit
5 corporation, or mutual benefit enterprise; a member of a nonprofit corporation,
6 cooperative, or member-managed limited liability company; and a partner of a
7 partnership.

8 (23) “Public place” means any street, alley, park, sidewalk, public
9 building other than individual dwellings, any place of public accommodation
10 as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted
11 tobacco product is prohibited pursuant to section 1421 of this title or
12 chapter 37 of this title.

13 (24) “Resident” means a person who is domiciled in Vermont, subject to
14 the following:

15 (A) The process for determining the domicile of an individual shall
16 be the same as that required by rules adopted by the Department of Taxes
17 related to determining domicile for the purpose of the interpretation and
18 administration of 32 V.S.A. § 5401(14).

19 (B) The domicile of a business entity is the State in which it is
20 organized.

1 (25) “School” means a public school, independent school, or facility that
2 provides early childhood education as those terms are defined in 16 V.S.A.

3 § 11.

4 (26) “Secretary” means the Secretary of Agriculture, Food and Markets.

5 § 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO
6 SEIZURE AND FORFEITURE

7 Marijuana possessed unlawfully in violation of this title may be seized by
8 law enforcement and is subject to forfeiture.

9 § 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF
10 CANNABIS

11 This chapter shall not apply to activities regulated by 7 V.S.A. chapter 34
12 (hemp) or chapter 86 (therapeutic use of cannabis) of this title.

13 § 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE
14 PROHIBITED

15 This chapter shall not be construed to permit consumption of marijuana in a
16 public place. Violations shall be punished in accordance with section 4230a of
17 this title.

18 § 4505. REGULATION BY LOCAL GOVERNMENT

19 (a)(1) A marijuana establishment shall obtain any required permit from a
20 town, city, or incorporated village prior to beginning operations within the
21 municipality.

1 (2) A municipality that hosts a marijuana establishment may establish a
2 board of marijuana control commissioners, who shall be the members of the
3 municipal legislative body. The board shall administer the municipal permits
4 under this subsection for the marijuana establishments within the municipality.

5 (b) Nothing in this chapter shall be construed to prevent a town, city, or
6 incorporated village from regulating marijuana establishments through local
7 ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set
8 forth in 24 V.S.A. § 4414.

9 (c)(1) A town, city, or incorporated village, by majority vote of those
10 present and voting at an annual or special meeting warned for the purpose, may
11 prohibit the operation of a marijuana establishment within the municipality.
12 The provisions of this subdivision shall not apply to a marijuana establishment
13 that is operating within the municipality at the time of the vote.

14 (2) A vote to prohibit the operation of a marijuana establishment within
15 the municipality shall remain in effect until rescinded by majority vote of those
16 present and voting at an annual or special meeting warned for the purpose.

17 § 4506. YOUTH RESTRICTIONS

18 (a) A marijuana establishment shall not dispense or sell marijuana to a
19 person under 21 years of age or employ a person under 21 years of age.

20 (b) A marijuana establishment shall not be located within 1,000 feet of a
21 preexisting public or private school or licensed or regulated child care facility.

1 (c) A marijuana establishment shall not permit a person under 21 years of
2 age to enter a building or enclosure on the premises where marijuana is
3 located. This subsection shall not apply to a registered patient visiting his or
4 her designated dispensary even if that dispensary is located in a building that is
5 located on the same premises as a marijuana establishment.

6 § 4507. ADVERTISING

7 (a) Marijuana advertising shall not contain any statement or illustration
8 that:

9 (1) is false or misleading;

10 (2) promotes overconsumption;

11 (3) represents that the use of marijuana has curative or therapeutic
12 effects;

13 (4) depicts a person under 21 years of age consuming marijuana; or

14 (5) is designed to be or has the effect of being particularly appealing to
15 children or persons under 21 years of age.

16 (b) Outdoor marijuana advertising shall not be located within 1,000 feet of
17 a preexisting public or private school or licensed or regulated child care
18 facility.

19 (c) In accordance with section 4512 of this chapter, the Agency shall adopt
20 regulations on marijuana establishment advertising that reflect the policies of

1 subsection (a) of this section and place restrictions on the time, place, and
2 manner, but not content, of the advertising.

3 (d) All advertising shall contain the following warnings:

4 (1) For use only by adults 21 years of age or older. Keep out of the
5 reach of children.

6 (2) Marijuana has intoxicating effects and may impair concentration,
7 coordination, and judgment. Do not operate a motor vehicle or heavy
8 machinery or enter into any contractual agreement under the influence of
9 marijuana.

10 Subchapter 2. Administration

11 § 4511. AUTHORITY

12 (a) For the purpose of regulating the cultivation, processing, packaging,
13 transportation, testing, purchase, and sale of marijuana in accordance with this
14 chapter, the Agency shall have the following authority and duties:

15 (1) rulemaking in accordance with this chapter and 3 V.S.A.

16 chapter 25;

17 (2) administration of a program for the licensure of marijuana
18 establishments, which shall include compliance and enforcement; and

19 (3) submission of an annual budget to the Governor.

20 (b)(1) There is established the Marijuana Advisory Board within the
21 Agency for the purpose of advising the Agency and other administrative

1 agencies and departments regarding policy for the implementation and
2 operation of this chapter. The Board shall be composed of the following
3 members:

4 (A) the Secretary of Agriculture, Food and Markets or designee;

5 (B) the Commissioner of Public Safety or designee;

6 (C) the Commissioner of Health or designee;

7 (D) the Commissioner of Taxes or designee; and

8 (E) a member of local law enforcement appointed by the Governor.

9 (2) The Secretary of Administration shall convene the first meeting of
10 the Board on or before June 1, 2017 and shall attend Board meetings.

11 § 4512. RULEMAKING

12 (a) The Agency shall adopt rules to implement this chapter on or before
13 March 15, 2018, in accordance with subdivisions (1)–(6) of this subsection.

14 (1) Rules concerning any marijuana establishment shall include:

15 (A) the form and content of license and renewal applications;

16 (B) qualifications for licensure that are directly and demonstrably
17 related to the operation of a marijuana establishment, including submission of
18 an operating plan and the requirement for a fingerprint-based criminal history
19 record check and regulatory record check pursuant to subsection 4522(d) of
20 this title;

21 (C) oversight requirements;

1 (D) inspection requirements;

2 (E) records to be kept by licensees and the required availability of the
3 records;

4 (F) employment and training requirements, including requiring that
5 each marijuana establishment create an identification badge for each employee;

6 (G) security requirements, including lighting, physical security,
7 video, and alarm requirements;

8 (H) restrictions on advertising, marketing, and signage;

9 (I) health and safety requirements;

10 (J) regulation of additives to marijuana, including those that are toxic
11 or designed to make the product more addictive, more appealing to children, or
12 to mislead consumers;

13 (K) procedures for seed-to-sale traceability of marijuana, including
14 any requirements for tracking software;

15 (L) regulation of the storage and transportation of marijuana;

16 (M) sanitary requirements;

17 (N) pricing guidelines with a goal of ensuring marijuana is
18 sufficiently affordable to undercut the illegal market;

19 (O) procedures for the renewal of a license, which shall allow
20 renewal applications to be submitted up to 90 days prior to the expiration of
21 the marijuana establishment's license;

1 (P) procedures for suspension and revocation of a license; and

2 (Q) requirements for banking and financial transactions.

3 (2)(A) Rules concerning cultivators shall include:

4 (i) restrictions on the use by cultivators of pesticides that are
5 injurious to human health;

6 (ii) standards for both the indoor and outdoor cultivation of
7 marijuana, including environmental protection requirements;

8 (iii) procedures and standards for testing marijuana for
9 contaminants and potency and for quality assurance and control;

10 (iv) labeling requirements for products sold to retailers;

11 (v) regulation of visits to the establishments, including the
12 number of visitors allowed at any one time and recordkeeping concerning
13 visitors; and

14 (vi) facility inspection requirements and procedures.

15 (B) The Agency shall consider the different needs and risks of small
16 cultivators of not more the 500 square feet when adopting rules and shall make
17 an exception to such rules or an accommodation to such rules for cultivators of
18 this size where appropriate.

19 (3) Rules concerning product manufacturers shall include:

20 (A) identification of the amount of delta-9 tetrahydrocannabinol that
21 constitutes a single serving;

1 (B) limitations for each individual package of edible marijuana-
2 infused products to a single serving with the exception of infused oils,
3 powders, and liquids;

4 (C) establishment of standards for the safe manufacture of hashish;

5 (D) requirements for opaque, child-resistant packaging;

6 (E) requirements for the dissemination of educational materials to
7 consumers who purchase marijuana-infused products;

8 (F) requirements for labeling of marijuana-infused products that
9 include the length of time it typically takes for products to take effect;

10 (G) requirements that an edible retail marijuana-infused product is
11 clearly identifiable with a standard symbol indicating that it contains
12 marijuana;

13 (H) a prohibition on candy or other products that are especially
14 appealing to children; and

15 (I) a prohibition on the inclusion of caffeine, nicotine, or alcoholic
16 beverages in a marijuana-infused product.

17 (4) Rules concerning retailers shall include:

18 (A) labeling requirements, including appropriate warnings
19 concerning the carcinogenic effects and other potential negative health
20 consequences of consuming marijuana, for products sold to customers;

1 (B) requirements for proper verification of age and residency of
2 customers;

3 (C) restrictions that marijuana shall be stored behind a counter or
4 other barrier to ensure a customer does not have direct access to the
5 marijuana; and

6 (D) regulation of visits to the establishments, including the number of
7 customers allowed at any one time and recordkeeping concerning visitors; and

8 (E) facility inspection requirements and procedures.

9 (5) Rules concerning testing laboratories shall include:

10 (A) procedures and standards for testing marijuana for contaminants
11 and potency and for quality assurance and control;

12 (B) reporting requirements, including requirements for chain of
13 custody recordkeeping;

14 (C) procedures for destruction of all samples; and

15 (D) facility inspection requirements and procedures.

16 (b) The Agency shall consult with the Department in the development and
17 adoption of the following rules identified in subsection (a) of this section:

18 (1) regarding any marijuana establishment, subdivisions (1)(B), (G),
19 (K), (L), (P), and (Q);

20 (2) regarding cultivators, subdivision (2)(A)(vi);

21 (3) regarding retailers, subdivisions (4)(B), (C), and (E); and

1 (4) regarding testing laboratories, subdivisions (5)(B), (C), and (D).

2 § 4513. IMPLEMENTATION

3 (a)(1) On or before April 15, 2018, the Agency shall begin accepting
4 applications for cultivator licenses and testing laboratory licenses. The initial
5 application period shall remain open for 30 days. The Agency may reopen the
6 application process for any period of time at its discretion.

7 (2) On or before June 15, 2018, the Agency shall begin issuing
8 cultivator licenses and testing laboratory licenses to qualified applicants.

9 (b)(1) On or before May 15, 2018, the Agency shall begin accepting
10 applications for product manufacturer, wholesaler, and retail licenses. The
11 initial application period shall remain open for 30 days. The Agency may
12 reopen the application process for any period of time at its discretion.

13 (2) On or before September 15, 2018, the Agency shall begin issuing
14 product manufacturer, wholesaler, and retailer licenses to qualified applicants.
15 A license shall not permit a licensee to open to the public or sell marijuana to
16 the public prior to January 2, 2019.

17 (c)(1) Prior to July 1, 2019, provided applicants meet the requirements of
18 this chapter, the Agency shall issue:

19 (A) an unlimited number of cultivator licenses that permit a
20 cultivation space of not more than 500 square feet;

1 (B) a maximum of 20 cultivator licenses that permit a cultivation
2 space of not more than 1,000 square feet;

3 (C) a maximum of eight cultivator licenses that permit a cultivation
4 space of more than 1,000 square feet up to 2,500 square feet;

5 (D) a maximum of 20 cultivator licenses that permit a cultivation
6 space of more than 2,500 square feet up to 5,000 square feet;

7 (E) a maximum of six cultivator licenses that permit a cultivation
8 space of more than 5,000 square feet up to 10,000 square feet;

9 (F) a maximum of five testing laboratory licenses; and

10 (G) a maximum of 42 retailer licenses.

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

18 § 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF

19 LICENSES

20 (a) The Agency shall have the authority to adopt rules for the issuance of
21 civil citations for violations of this chapter and the rules adopted pursuant to

1 section 4512 of this title. Any proposed rule under this section shall include
2 the full, minimum, and waiver penalty amounts for each violation.

3 (b) The Agency shall have the authority to suspend or revoke a license for
4 violations of this chapter in accordance with rules adopted pursuant to section
5 4512 of this title.

6 Subchapter 3. Licenses

7 § 4521. GENERAL PROVISIONS

8 (a) Except as otherwise permitted by this chapter, a person shall not engage
9 in the cultivation, preparation, processing, packaging, transportation, testing, or
10 sale of marijuana or marijuana-infused products without obtaining a license
11 from the Agency.

12 (b) All licenses shall expire at midnight on April 30 of each year, beginning
13 no earlier than 10 months after the original license was issued to the marijuana
14 establishment.

15 (c) Applications for licenses and renewals shall be submitted on forms
16 provided by the Agency and shall be accompanied by the fees provided for in
17 section 4528 of this section.

18 (d) An applicant and its affiliates may obtain a maximum of one type of
19 each license under this chapter.

20 (e) Each license shall permit only one location of the establishment.

1 (f) A dispensary that obtains a retailer license pursuant to this chapter shall
2 maintain the dispensary and retail operations in a manner that protects patient
3 and caregiver privacy in accordance with rules adopted by the Agency. If the
4 dispensary and retail establishment are located on the same premises, the
5 dispensary and retail establishment shall provide separate entrances and
6 common areas designed to serve patients and caregivers and customers.

7 (g) Each licensee shall obtain and maintain commercial general liability
8 insurance in accordance with rules adopted by the Agency. Failure to provide
9 proof of insurance to the Agency, as required, may result in revocation of the
10 license.

11 (h) All records relating to security, transportation, public safety, and trade
12 secrets in an application for a license under this chapter shall be exempt from
13 public inspection and copying under the Public Records Act.

14 § 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

15 (a) To be eligible for a marijuana establishment license:

16 (1) An applicant, principal of an applicant, and person who owns or
17 controls an applicant, who is a natural person:

18 (A) shall be 21 years of age or older; and

19 (B) shall consent to the release of his or her criminal and
20 administrative history records.

1 (2) Each principal of an applicant who serves as the applicant's chief
2 executive, chief financial officer, or equivalent position shall have been a
3 resident of Vermont for at least six months immediately preceding the date of
4 application.

5 (3) If the applicant is not a natural person:

6 (A) the majority of the applicant's board of directors or equivalent
7 governing body shall each have been residents of Vermont for at least six
8 months immediately preceding the date of application.

9 (B) not less than 51 percent of the total equity interests in such
10 applicant shall be beneficially held by individuals who have been residents of
11 Vermont for at least six months immediately preceding the date of application.

12 (4) If the applicant is a subsidiary of a holding company, the
13 requirements of subdivisions (1)–(3) of this subsection shall apply to the
14 holding company and the principals, controlling persons, and ten percent
15 owners as if the holding company were the applicant.

16 (b) As part of the application process, each applicant shall submit, in a
17 format prescribed by the Agency, an operating plan. The plan shall include a
18 floor plan or site plan drawn to scale that illustrates the entire operation being
19 proposed. The plan shall also include the following:

20 (1) For a cultivator license, information concerning:

21 (A) security;

1 (B) traceability;

2 (C) employee qualifications and training;

3 (D) transportation of product;

4 (E) destruction of waste product;

5 (F) description of growing operation, including growing media, size
6 of grow space allocated for plant production, space allowed for any other
7 business activity, description of all equipment to be used in the cultivation
8 process, and a list of soil amendments, fertilizers, or other crop production
9 aids, or pesticides, utilized in the production process;

10 (G) how the applicant will meet its operation's need for energy
11 services at the lowest present value life-cycle cost, including environmental
12 and economic costs, through a strategy combining investments and
13 expenditures on energy efficiency and energy supply;

14 (H) testing procedures and protocols;

15 (I) description of packaging and labeling of products transported to
16 wholesalers, product manufacturers, retailers, and dispensaries; and

17 (J) any additional requirements contained in rules adopted by the
18 Agency in accordance with this chapter.

19 (2) For a retailer license, information concerning:

20 (A) security;

21 (B) traceability;

1 (C) employee qualifications and training;

2 (D) destruction of waste product;

3 (E) description of packaging and labeling of products sold to
4 customers;

5 (F) the products to be sold and how they will be displayed to
6 customers; and

7 (G) any additional requirements contained in rules adopted by the
8 Agency in accordance with this chapter.

9 (3) For a testing laboratory license, information concerning:

10 (A) security;

11 (B) traceability;

12 (C) employee qualifications and training;

13 (D) destruction of waste product; and

14 (E) the types of testing to be offered.

15 (d) The Department shall obtain a Vermont criminal history record, an out-
16 of-state criminal history record, a criminal history record from the Federal
17 Bureau of Investigation, and any regulatory records relating to the operation of
18 a business in this State or any other jurisdiction for each of the following who
19 is a natural person:

20 (1) an applicant;

1 (2) each principal of an applicant or the applicant's holding company, if
2 the applicant is an affiliate of a holding company; and

3 (3) each person who controls an applicant, an applicant's holding
4 company, or a direct or beneficial owner of ten percent or more of an applicant
5 or applicant's holding company's equity interest or equivalent.

6 (e) When considering applications for a marijuana establishment license,
7 the Agency shall:

8 (1) give priority to a qualified applicants for co-ops, craft cultivators,
9 and cultivators that plan to grow outdoors;

10 (2) strive for geographic distribution of marijuana establishments based
11 on population.

12 § 4523. EDUCATION

13 (a) An applicant for a marijuana establishment license shall meet with an
14 Agency designee for the purpose of reviewing Vermont laws and rules
15 pertaining to the possession, purchase, storage, and sale of marijuana prior to
16 receiving a license.

17 (b) A licensee shall complete an enforcement seminar every three years
18 conducted by the Agency. A license shall not be renewed unless the records of
19 the Agency show that the licensee has complied with the terms of this
20 subsection.

1 (c) A licensee shall ensure that each employee involved in the sale of
2 marijuana completes a training program approved by the Agency prior to
3 selling marijuana and at least once every 24 months thereafter. A licensee
4 shall keep a written record of the type and date of training for each employee,
5 which shall be signed by each employee. A licensee may comply with this
6 requirement by conducting its own training program on its premises, using
7 information and materials furnished by the Agency. A licensee who fails to
8 comply with the requirements of this section shall be subject to a suspension of
9 no less than one day of the license issued under this chapter.

10 § 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

11 (a) The Agency shall issue each employee an identification card or renewal
12 card within 30 days of receipt of the person's name, address, and date of birth
13 and a fee of \$50.00. The fee shall be paid by the marijuana establishment and
14 shall not be passed on to an employee. A person shall not work as an
15 employee until that person has received an identification card issued under this
16 section. Each card shall contain the following:

17 (1) the name, address, and date of birth of the person;

18 (2) the legal name of the marijuana establishment with which the person
19 is affiliated;

20 (3) a random identification number that is unique to the person;

1 (4) the date of issuance and the expiration date of the identification
2 card; and

3 (5) a photograph of the person.

4 (b) Prior to acting on an application for an identification card, the Agency
5 shall obtain from the Department the person's Vermont criminal history
6 record, out-of-state criminal history record, and criminal history record from
7 the Federal Bureau of Investigation. Each person shall consent to the release
8 of criminal history records to the Agency and the Department on forms
9 developed by the Vermont Crime Information Center.

10 (c) When the Department obtains a criminal history record, the Department
11 shall promptly provide a copy of the record to the person and the marijuana
12 establishment. The Department shall inform the person of the right to appeal
13 the accuracy and completeness of the record pursuant to rules adopted by the
14 Agency.

15 (d) The Department shall comply with all laws regulating the release of
16 criminal history records and the protection of individual privacy. No person
17 shall confirm the existence or nonexistence of criminal history record
18 information to any person who would not be eligible to receive the information
19 pursuant to this chapter.

20 (e) The Agency, in consultation with the Department, shall adopt rules for
21 the issuance of an identification card and shall set forth standards for

1 determining whether a person should be denied a registry identification card
2 because his or her criminal history record indicates that the person's
3 association with a marijuana establishment would pose a demonstrable threat
4 to public safety. Previous nonviolent drug-related convictions shall not
5 automatically disqualify an applicant. A marijuana establishment may deny a
6 person the opportunity to serve as an employee based on his or her criminal
7 history record. A person who is denied an identification card may appeal the
8 Department's determination in Superior Court in accordance with Rule 75 of
9 the Vermont Rules of Civil Procedure.

10 (f) An identification card shall expire one year after its issuance or upon the
11 expiration of the marijuana establishment's license, whichever occurs first.

12 § 4525. CULTIVATOR LICENSE

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

16 (b) Cultivation of marijuana shall occur only in an enclosed, locked facility
17 which is either indoors, or if outdoors, not visible to the public, and which can
18 only be accessed by principal officers and employees of the dispensary who
19 have valid identification cards.

1 (c) An applicant shall designate on his or her operating plan the size of the
2 premises and the amount of actual square footage that will be dedicated to
3 plant canopy.

4 (d) Representative samples of each lot or batch of marijuana intended for
5 human consumption shall be tested for safety and potency in accordance with
6 rules adopted by the Agency.

7 (e) Each cultivator shall create packaging for its marijuana.

8 (1) Packaging shall include:

9 (A) The name and registration number of the cultivator.

10 (B) The strain of marijuana contained. Marijuana strains shall be
11 either pure breeds or hybrid varieties of marijuana and shall reflect properties
12 of the plant.

13 (C) The potency of the marijuana represented by the percentage of
14 tetrahydrocannabinol and cannabidiol by mass.

15 (D) A “produced on” date reflecting the date that the cultivator
16 finished producing marijuana.

17 (E) Warnings, in substantially the following form, stating,
18 “Consumption of marijuana impairs your ability to drive a car and operate
19 machinery,” “Keep away from children,” and “Possession of marijuana is
20 illegal under federal law.”

1 (F) Any additional requirements contained in rules adopted by the
2 Department in accordance with this chapter. Rules shall take into
3 consideration that different labeling requirements may be appropriate
4 depending on whether the marijuana is sold to a wholesaler, product
5 manufacturer, or retailer.

6 (2) Packaging shall not be designed to appeal to persons under 21 years
7 of age.

8 (f)(1) Only unadulterated marijuana shall be offered for sale. If, upon
9 inspection, the Agency finds any violative pesticide residue or other
10 contaminants of concern, the Agency shall order the marijuana, either
11 individually or in blocks, to be:

12 (A) put on stop-sale;

13 (B) treated in a particular manner; or

14 (C) destroyed according to the Agency's instructions.

15 (2) Marijuana ordered destroyed or placed on stop-sale shall be clearly
16 separable from salable marijuana. Any order shall be confirmed in writing
17 within seven days. The order shall include the reason for action, a description
18 of the marijuana affected, and any recommended treatment.

19 (3) A person may appeal an order issued pursuant to this section within
20 15 days of receiving the order. The appeal shall be made in writing to the

1 Secretary and shall clearly identify the marijuana affected and the basis for the
2 appeal.

3 § 4526. WHOLESALER LICENSE

4 A wholesaler licensed under this chapter may:

5 (1) purchase marijuana from licensed cultivators and marijuana-infused
6 products from licensed product manufacturers;

7 (2) transport, possess, and sell marijuana and marijuana-infused
8 products to licensed product manufacturers and retailers.

9 § 4527. PRODUCT MANUFACTURER LICENSE

10 A product manufacturer licensed under this chapter may:

11 (1) purchase marijuana from licensed cultivators and wholesalers and
12 marijuana-infused products from licensed wholesalers and product
13 manufacturers;

14 (2) use marijuana and marijuana-infused products to produce marijuana-
15 infused products; and

16 (3) transport, possess, and sell marijuana-infused products to licensed
17 wholesalers, product manufacturers, and retailers.

18 § 4528. RETAILER LICENSE

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

1 (1) purchase marijuana from a licensed cultivator or wholesaler and
2 marijuana-infused products from a licensed wholesaler or product
3 manufacturer; and

4 (2) transport, possess, and sell marijuana and marijuana-infused
5 products to the public for consumption off the registered premises.

6 (b)(1) In a single transaction, a retailer may provide:

7 (A) one ounce of marijuana or the equivalent of marijuana-infused
8 products or a combination thereof to a person 21 years of age or older upon
9 verification of a valid government-issued photograph identification card that
10 indicates the person is domiciled in Vermont; or

11 (B) one-half of an ounce of marijuana or the equivalent of marijuana-
12 infused products or a combination thereof to a person 21 years of age or older
13 upon verification of a valid government-issued photograph identification card
14 that indicates the person is domiciled outside Vermont.

15 (2) A retailer shall not knowingly and willfully sell an amount of
16 marijuana to a person that causes the person to exceed the possession limit.

17 (c)(1) Packaging shall include:

18 (A) The name and registration number of the retailer.

19 (B) The strain of marijuana contained. Marijuana strains shall be
20 either pure breeds or hybrid varieties of marijuana and shall reflect properties
21 of the plant.

1 (C) The potency of the marijuana represented by the percentage of
2 tetrahydrocannabinol and cannabidiol by mass.

3 (D) A “produced on” date reflecting the date that the cultivator
4 finished producing marijuana.

5 (E) Warnings, in substantially the following form, stating,
6 “Consumption of marijuana impairs your ability to drive a car and operate
7 machinery,” “Keep away from children,” and “Possession of marijuana is
8 illegal under federal law.”

9 (F) Any additional requirements contained in rules adopted by the
10 Agency in accordance with this chapter.

11 (2) Packaging shall not be designed to appeal to persons under 21 years
12 of age.

13 (d) A retailer shall display a safety information flyer developed or
14 approved by the Board and supplied to the retailer free of charge. The flyer
15 shall contain information concerning the methods for administering marijuana,
16 the potential dangers of marijuana use, the symptoms of problematic usage,
17 and how to receive help for marijuana abuse.

18 (e) Internet sales and delivery of marijuana to customers are prohibited.

1 § 4529. MARIJUANA TESTING LABORATORY

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

5 (b) Testing may address the following:

6 (1) residual solvents;

7 (2) poisons or toxins;

8 (3) harmful chemicals;

9 (4) dangerous molds, mildew, or filth;

10 (5) harmful microbials, such as E.coli or salmonella;

11 (6) pesticides; and

12 (7) tetrahydrocannabinol and cannabidiol potency.

13 (c) A testing laboratory shall have a written procedural manual made
14 available to employees to follow meeting the minimum standards set forth in
15 rules detailing the performance of all methods employed by the facility used to
16 test the analytes it reports.

17 (d) In accordance with rules adopted pursuant to this chapter, a testing
18 laboratory shall establish a protocol for recording the chain of custody of all
19 marijuana samples.

1 (e) A testing laboratory shall establish, monitor, and document the ongoing
2 review of a quality assurance program that is sufficient to identify problems in
3 the laboratory systems when they occur.

4 (f) A marijuana establishment that is subject to testing requirements under
5 this chapter or rules adopted pursuant to this chapter shall have its marijuana or
6 marijuana-infused products tested by an independent licensed testing
7 laboratory and not a licensed testing laboratory owned or controlled by the
8 license holder of the marijuana establishment.

9 § 4530. FEES

10 (a) The Agency shall charge and collect initial license application fees and
11 annual license renewal fees for each type of marijuana license under this
12 chapter. Fees shall be due and payable at the time of license application or
13 renewal.

14 (b)(1) The nonrefundable fee accompanying an application for a marijuana
15 establishment license shall be 25 percent of the annual license fee for such a
16 license as provided in subsection (c) of this section.

17 (2) If a person submits a qualifying application for a marijuana
18 establishment license during an open application, pays the nonrefundable
19 application fee, but is not selected to receive a license due to the limited
20 number of licenses available, the person may reapply, based on availability, for

1 such a license within two years by resubmitting the application with any
2 necessary updated information, and shall be charged a fee that is:

3 (A) fifty percent of the application fees set forth in subdivisions
4 (1)–(3) of this subsection (b) if the original application was submitted prior to
5 July 1, 2018; or

6 (B) twenty-five percent of the application fees set forth in
7 subdivisions (1)–(3) of this subsection (b) if the original application was
8 submitted on or after July 1, 2018 and before July 1, 2019.

9 (c)(1) The initial annual license fee and subsequent annual renewal fee for
10 a cultivator license pursuant to section 4525 of this chapter shall be determined
11 as follows:

12 (A) For a cultivator license that permits a cultivation space of not
13 more than 500 square feet, the initial annual license and subsequent renewal
14 fee shall be \$500.00 if the cultivation space is exclusively outdoors; otherwise
15 the fee shall be \$1,500.00.

16 (B) For a cultivator license that permits a cultivation space of more
17 than 500 square feet but not more than 10,000 square feet, the initial annual
18 license and subsequent renewal fee shall be \$1.00 per square foot for outdoor
19 cultivation and \$3.00 per square foot for indoor cultivation.

1 (2) The initial annual license fee and subsequent annual renewal fee for
2 a wholesaler license pursuant to section 4526 of this chapter shall be
3 \$10,000.00.

4 (3) The initial annual license fee and subsequent annual renewal fee for
5 a product manufacturer license pursuant to section 4527 of this chapter shall be
6 \$2,500.00.

7 (4) The initial annual license fee and subsequent annual renewal fee for
8 a retailer license pursuant to section 4528 of this chapter shall be \$10,000.00.

9 (5) The initial annual license fee and subsequent annual renewal fee for
10 a marijuana testing laboratory license pursuant to section 4529 of this chapter
11 shall be \$500.00.

12 § 4531. MARIJUANA REGULATION AND RESOURCE FUND

13 (a) The Marijuana Regulation and Resource Fund is hereby created. The
14 Fund shall be maintained by the Agency of Administration.

15 (b) The Fund shall be composed of:

16 (1) all application fees, license fees, renewal fees, and civil penalties
17 collected pursuant to this chapter; and

18 (2) all taxes collected by the Commissioner of Taxes pursuant to this
19 chapter.

1 (c) Funds shall be appropriated for the purpose of implementation,
2 administration, and enforcement of this chapter. Remaining funds shall be
3 directed to the General Fund.

4 (d) This Fund is established in the State Treasury pursuant to 32 V.S.A.
5 chapter 7, subchapter 5. The Commissioner of Finance and Management shall
6 anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

7 (e) The Secretary of Administration shall report annually to the Joint Fiscal
8 Committee on receipts and expenditures through the prior fiscal year on or
9 before the Committee's regularly scheduled November meeting.

10 Subchapter 4. Marijuana Program Review Commission

11 § 4546. PURPOSE; MEMBERS

12 (a) Creation. There is created the temporary Marijuana Program Review
13 Commission for the purpose of facilitating efficient and lawful implementation
14 of this act and examination of issues important to the future of marijuana
15 regulation in Vermont.

16 (b) Membership. The Commission shall be composed of the following
17 members:

18 (1) two members of the public appointed by the Governor, one of whom
19 shall have experience in public health;

20 (2) two members of the House of Representatives, appointed by the
21 Speaker of the House;

1 (3) two members of the Senate, appointed by the Committee on
2 Committees; and

3 (4) the Attorney General or designee.

4 (c) Legislative members shall serve only while in office.

5 § 4547. POWERS; DUTIES

6 (a) The Commission shall:

7 (1) collect information about the implementation, operation, and effect
8 of this act from members of the public, State agencies, and private and public
9 sector businesses and organizations;

10 (2) communicate with other states that have legalized marijuana and
11 monitor those states regarding their implementation of regulation, policies, and
12 strategies that have been successful and problems that have arisen;

13 (3) keep updated on the latest information in Vermont and other
14 jurisdictions regarding the prevention and detection of impaired driving as it
15 relates to marijuana;

16 (4) review the statutes and rules for the therapeutic marijuana program
17 and dispensaries and determine whether additional amendments are necessary
18 to maintain patient access to marijuana and viability of the dispensaries;

19 (5) monitor supply and demand of marijuana cultivated and sold
20 pursuant to this act for the purpose of assisting the Agency and policymakers
21 with determining appropriate numbers of licenses and limitations on the

1 amount of marijuana cultivated and offered for retail sale in Vermont so that
2 the adult market is served without unnecessary surplus marijuana;

3 (6) monitor the extent to which marijuana is accessed through both the
4 legal and illegal markets by persons under 21 years of age;

5 (7) identify strategies for preventing youths from using marijuana;

6 (8) identify academic and scientific research, including longitudinal
7 research questions, that when completed may assist policymakers in
8 developing marijuana policy in accordance with this chapter;

9 (9) consider whether to create a local revenue stream which may include
10 a local option excise tax on marijuana sales or municipally assessed fees;

11 (10) recommend the appropriate maximum amount of marijuana sold by
12 a retailer in a single transaction and whether there should be differing amounts
13 for Vermonters and nonresidents; and

14 (11) report any recommendations to the General Assembly and the
15 Governor, as needed.

16 (b) On or before January 15, 2020, the Commission shall issue a final
17 report to the General Assembly and the Governor regarding its findings and
18 any recommendations for legislative or administrative action.

19 § 4548. ADMINISTRATION

20 (a) Assistance. The Commission shall have the administrative, technical,
21 and legal assistance of the Administration.

1 (b) Meetings.

2 (1) The Administration shall call the first meeting of the Commission to
3 occur on or before August 1, 2017.

4 (2) The Commission shall select a chair from among its members at the
5 first meeting.

6 (3) A majority of the membership shall constitute a quorum.

7 (4) The Commission shall cease meeting regularly after the issuance of
8 its final report, but members shall be available to meet with Administration
9 officials and the General Assembly until July 1, 2020 at which time the
10 Commission shall cease to exist.

11 (c) Reimbursement.

12 (1) For attendance at meetings during adjournment of the General
13 Assembly, legislative members of the Commission shall be entitled to per diem
14 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for
15 as many meetings as the Chair deems necessary.

16 (2) Other members of the Commission who are not employees of the
17 State of Vermont and who are not otherwise compensated or reimbursed for
18 their attendance shall be entitled to per diem compensation and reimbursement
19 of expenses pursuant to 32 V.S.A. § 1010.

1 Sec. 9. 32 V.S.A. chapter 207 is added to read:

2 CHAPTER 207. MARIJUANA TAXES

3 Subchapter 1. Wholesale Tax

4 § 7901. TAX IMPOSED

5 (a) There is imposed a marijuana wholesale tax equal to 15 percent of the
6 sales price on each sale of marijuana by a wholesaler, product manufacturer, or
7 cultivator to a retailer located in this State. The tax imposed by this subchapter
8 shall be paid by the wholesaler, product manufacturer, or cultivator.

9 (b) Every year, on or before January 15, the Department of Public Safety,
10 in consultation with the Department of Taxes, shall report to the General
11 Assembly with recommendations for any adjustment to the rate of tax under
12 this section which would help combat unlicensed sales of marijuana in this
13 State.

14 (c) The following sales shall be exempt from the tax imposed under this
15 section:

16 (1) sales under any circumstances in which the State is without power to
17 impose the tax; and

18 (2) sales made to any dispensary, provided the marijuana will be
19 provided only to registered qualifying patients directly or through their
20 registered caregivers.

1 § 7902. RETURNS

2 (a) Any wholesaler, product manufacturer, or cultivator required to pay the
3 tax imposed by this subchapter shall, on or before the 15th day of every month,
4 return to the Department of Taxes, under oath of a person with legal authority
5 to bind the seller, a statement containing its name and place of business, the
6 amount of marijuana or marijuana-infused product subject to the wholesale tax
7 imposed by this subchapter sold in the preceding month, and any other
8 information required by the Department of Taxes, along with the tax due.

9 (b) Every wholesaler, product manufacturer, or cultivator shall maintain,
10 for not less than three years, accurate records showing all transactions subject
11 to tax liability under this subchapter. These records are subject to inspection
12 by the Department of Taxes at all reasonable times during normal business
13 hours.

14 § 7903. LICENSES

15 (a) Every wholesaler, product manufacturer, or cultivator required to pay
16 the tax imposed by this chapter shall apply for a marijuana wholesale tax
17 license in the manner prescribed by the Commissioner of Taxes. The licenses
18 shall be nonassignable and nontransferable and shall be surrendered to the
19 Commissioner immediately upon the registrant's ceasing to do business at the
20 place named.

1 (2) sales made by any dispensary, provided the marijuana will be
2 provided only to registered qualifying patients directly or through their
3 registered caregivers.

4 § 7922. LIABILITY FOR TAX AND PENALTIES

5 (a) Any tax collected under this chapter shall be deemed to be held by the
6 retailer in trust for the State of Vermont. Any tax collected under this chapter
7 shall be accounted for separately so as to indicate clearly the amount of tax
8 collected, and that the tax receipts are the property of the State of Vermont.

9 (b) Every retailer required to collect the tax imposed by this chapter shall
10 be personally and individually liable for the amount of tax together with such
11 interest and penalty as has accrued under this title. If the retailer is a
12 corporation or other entity, the personal liability shall extend to any officer or
13 agent of the corporation or entity who as an officer or agent of the same has the
14 authority to collect the tax and transmit it to the Commissioner of Taxes as
15 required in this chapter.

16 (c) A retailer shall have the same rights in collecting the tax from his or her
17 purchaser or regarding nonpayment of the tax by the purchaser as if the tax
18 were a part of the purchase price of the marijuana and payable at the same
19 time; provided, however, if the retailer required to collect the tax has failed to
20 remit any portion of the tax to the Commissioner of Taxes, the Commissioner
21 of Taxes shall be notified of any action or proceeding brought by the retailer to

1 collect the tax and shall have the right to intervene in such action or
2 proceeding.

3 (d) A retailer required to collect the tax may also refund or credit to the
4 purchaser any tax erroneously, illegally, or unconstitutionally collected. No
5 cause of action that may exist under State law shall accrue against the retailer
6 for the tax collected unless the purchaser has provided written notice to a
7 retailer, and the retailer has had 60 days to respond.

8 (e) To the extent not inconsistent with this chapter, the provisions for the
9 assessment, collection, enforcement, and appeals of the sales and use taxes in
10 chapter 233 of this title shall apply to the tax imposed by this chapter.

11 § 7923. BUNDLED TRANSACTIONS

12 (a) Except as provided in subsection (b) of this section, a retail sale of a
13 bundled transaction that includes marijuana or a marijuana-infused product is
14 subject to the tax imposed by this chapter on the entire selling price of the
15 bundled transaction.

16 (b) If the selling price is attributable to products that are taxable and
17 products that are not taxable under this chapter, the portion of the price
18 attributable to the nontaxable products are subject to the tax imposed by this
19 chapter unless the retailer can identify by reasonable and verifiable standards
20 the portion that is not subject to tax from its books and records that are kept in
21 the regular course of business.

1 (c) As used in this section, “bundled transaction” means:

2 (1) the retail sale of two or more products where the products are
3 otherwise distinct and identifiable, are sold for one nonitemized price, and at
4 least one of the products includes marijuana or a marijuana-infused product
5 subject to the tax under this chapter; or

6 (2) marijuana or marijuana-infused products provided free of charge
7 with the required purchase of another product.

8 § 7924. RETURNS

9 (a) Any retailer required to collect the tax imposed by this chapter shall, on
10 or before the 15th day of every month, return to the Department of Taxes,
11 under oath of a person with legal authority to bind the retailer, a statement
12 containing its name and place of business, the amount of marijuana or
13 marijuana-infused product sales subject to the retail tax imposed by this
14 subchapter sold in the preceding month, and any other information required by
15 the Department of Taxes, along with the tax due.

16 (b) Every retailer shall maintain, for not less than three years, accurate
17 records showing all transactions subject to tax liability under this chapter.
18 These records are subject to inspection by the Department of Taxes at all
19 reasonable times during normal business hours.

1 § 7925. LICENSES

2 (a) Every retailer required to collect the tax imposed by this chapter shall
3 apply for a marijuana retail tax license in the manner prescribed by the
4 Commissioner of Taxes. The Commissioner shall issue, without charge, to
5 each registrant a license empowering him or her to collect the marijuana retail
6 tax. Each license shall state the place of business to which it is applicable.
7 The license shall be prominently displayed in the place of business of the
8 registrant. The licenses shall be nonassignable and nontransferable and shall
9 be surrendered to the Commissioner immediately upon the registrant's ceasing
10 to do business at the place named. A license to collect marijuana retail tax
11 shall be in addition to the licenses required by sections 9271 (meals and rooms
12 tax) and 9707 (sales and use tax) of this title and any license required by the
13 Department of Public Safety.

14 (b) The Department of Public Safety may require the Commissioner of
15 Taxes to suspend or revoke the tax license of any person for failure to comply
16 with any provision of this chapter.

17 Subchapter 3. Local Tax

18 § 7941. TAX IMPOSED

19 (a) There is imposed a marijuana local tax equal to 2.5 percent of the sales
20 price, as that term is defined in subdivision 9701(4) of this title, on each retail
21 sale of marijuana or marijuana-infused products in this State. The tax imposed

1 by this section shall be paid by the buyer to the retailer. Each retailer shall
2 collect from the buyer the full amount of the tax payable on each taxable sale.

3 (b) The tax imposed by this section is separate from the general sales and
4 use tax imposed by chapter 233 of this title. The tax imposed under this
5 section shall be separately itemized from any State and local retail sales tax on
6 the sales receipt provided to the buyer.

7 (c) The following sales shall be exempt from the tax imposed under this
8 section:

9 (1) sales under any circumstances in which the State is without power to
10 impose the tax; and

11 (2) sales made by any dispensary, provided the marijuana will be
12 provided only to registered qualifying patients directly or through their
13 registered caregivers.

14 § 7942. LIABILITY FOR TAX AND PENALTIES

15 (a) Any tax collected under this chapter shall be deemed to be held by the
16 retailer in trust for the State of Vermont. Any tax collected under this chapter
17 shall be accounted for separately so as to indicate clearly the amount of tax
18 collected, and that the tax receipts are the property of the State of Vermont.

19 (b) Every retailer required to collect the tax imposed by this chapter shall
20 be personally and individually liable for the amount of tax together with such
21 interest and penalty as has accrued under this title. If the retailer is a

1 corporation or other entity, the personal liability shall extend to any officer or
2 agent of the corporation or entity who as an officer or agent of the same has the
3 authority to collect the tax and transmit it to the Commissioner of Taxes as
4 required in this chapter.

5 (c) A retailer shall have the same rights in collecting the tax from his or her
6 purchaser or regarding nonpayment of the tax by the purchaser as if the tax
7 were a part of the purchase price of the marijuana and payable at the same
8 time; provided, however, if the retailer required to collect the tax has failed to
9 remit any portion of the tax to the Commissioner of Taxes, the Commissioner
10 of Taxes shall be notified of any action or proceeding brought by the retailer to
11 collect the tax and shall have the right to intervene in such action or
12 proceeding.

13 (d) A retailer required to collect the tax may also refund or credit to the
14 purchaser any tax erroneously, illegally, or unconstitutionally collected. No
15 cause of action that may exist under State law shall accrue against the retailer
16 for the tax collected unless the purchaser has provided written notice to a
17 retailer, and the retailer has had 60 days to respond.

18 (e) The tax imposed under this subchapter shall be collected and
19 administered by the Department of Taxes, and the taxes collected under this
20 subchapter shall be paid by the Department of Taxes to the municipality where
21 the tax was collected; provided, however, that a per return fee of \$5.96 shall be

1 assessed to compensate the Department for the cost of collecting and
2 administering the tax. To the extent not inconsistent with this chapter, the
3 provisions for the assessment, collection, enforcement, and appeals of the sales
4 and use taxes in chapter 233 of this title shall apply to the tax imposed by this
5 chapter.

6 § 7943. BUNDLED TRANSACTIONS

7 (a) Except as provided in subsection (b) of this section, a retail sale of a
8 bundled transaction that includes marijuana or a marijuana-infused product is
9 subject to the tax imposed by this chapter on the entire selling price of the
10 bundled transaction.

11 (b) If the selling price is attributable to products that are taxable and
12 products that are not taxable under this chapter, the portion of the price
13 attributable to the nontaxable products are subject to the tax imposed by this
14 chapter unless the retailer can identify by reasonable and verifiable standards
15 the portion that is not subject to tax from its books and records that are kept in
16 the regular course of business.

17 (c) As used in this section, “bundled transaction” means:

18 (1) the retail sale of two or more products where the products are
19 otherwise distinct and identifiable, are sold for one nonitemized price, and at
20 least one of the products includes marijuana or a marijuana-infused product
21 subject to the tax under this chapter; or

1 (2) marijuana or marijuana-infused products provided free of charge
2 with the required purchase of another product.

3 § 7944. RETURNS

4 (a) Any retailer required to collect the tax imposed by this subchapter shall,
5 on or before the 15th day of every month, return to the Department of Taxes,
6 under oath of a person with legal authority to bind the retailer, a statement
7 containing its name and place of business, the amount of marijuana or
8 marijuana-infused product sales subject to the local tax imposed by this
9 subchapter sold in the preceding month, and any other information required by
10 the Department of Taxes, along with the tax due.

11 (b) Every retailer shall maintain, for not less than three years, accurate
12 records showing all transactions subject to tax liability under this subchapter.
13 These records are subject to inspection by the Department of Taxes at all
14 reasonable times during normal business hours.

15 § 7945. LICENSES

16 (a) Every retailer required to collect the tax imposed by this subchapter
17 shall apply for a marijuana local tax license in the manner prescribed by the
18 Commissioner of Taxes. The Commissioner shall issue, without charge, to
19 each registrant a license empowering him or her to collect the marijuana local
20 tax. Each license shall state the place of business to which it is applicable.
21 The license shall be prominently displayed in the place of business of the

1 registrant. The licenses shall be nonassignable and nontransferable and shall
2 be surrendered to the Commissioner immediately upon the registrant's ceasing
3 to do business at the place named. A license to collect marijuana local tax
4 shall be in addition to the licenses required by sections 9271 (meals and rooms
5 tax) and 9707 (sales and use tax) of this title and any license required by the
6 Department of Public Safety.

7 (b) The Department of Public Safety may require the Commissioner of
8 Taxes to suspend or revoke the tax license of any person for failure to comply
9 with any provision of this chapter.

10 Sec. 10. 32 V.S.A. § 5811 is amended to read:

11 § 5811. DEFINITIONS

12 The following definitions shall apply throughout this chapter unless the
13 context requires otherwise:

14 * * *

15 (18) "Vermont net income" means, for any taxable year and for any
16 corporate taxpayer:

17 (A) the taxable income of the taxpayer for that taxable year under the
18 laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal
19 Revenue Code, and excluding income which under the laws of the United
20 States is exempt from taxation by the states:

21 (i) increased by:

1 (I) the amount of any deduction for State and local taxes on or
2 measured by income, franchise taxes measured by net income, franchise taxes
3 for the privilege of doing business, and capital stock taxes; and

4 (II) to the extent such income is exempted from taxation under
5 the laws of the United States by the amount received by the taxpayer on and
6 after January 1, 1986 as interest income from State and local obligations, other
7 than obligations of Vermont and its political subdivisions, and any dividends
8 or other distributions from any fund to the extent such dividend or distribution
9 is attributable to such Vermont State or local obligations;

10 (III) the amount of any deduction for a federal net operating
11 loss; and

12 (ii) decreased by:

13 (I) the “gross-up of dividends” required by the federal Internal
14 Revenue Code to be taken into taxable income in connection with the
15 taxpayer’s election of the foreign tax credit; ~~and~~

16 (II) the amount of income which results from the required
17 reduction in salaries and wages expense for corporations claiming the Targeted
18 Job or WIN credits; and

19 (III) any federal deduction that the taxpayer would have been
20 allowed for the cultivation, testing, processing, or sale of marijuana, except for

1 marketing expenses, as authorized under 18 V.S.A. chapter 86 or 87, but for
2 26 U.S.C. § 280E.

3 * * *

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

6 (A) Increased by the following items of income (to the extent such
7 income is excluded from federal adjusted gross income):

8 (i) interest income from non-Vermont state and local obligations;

9 (ii) dividends or other distributions from any fund to the extent
10 they are attributable to non-Vermont state or local obligations;

11 (iii) the amount of State and local income taxes deducted from
12 federal adjusted gross income for the taxable year, but in no case in an amount
13 that will reduce total itemized deductions below the standard deduction
14 allowable to the taxpayer; and

15 (iv) the amount of total itemized deductions, other than deductions
16 for State and local income taxes, medical and dental expenses, or charitable
17 contributions, deducted from federal adjusted gross income for the taxable
18 year, that is in excess of two and one-half times the standard deduction
19 allowable to the taxpayer; and

20 (B) Decreased by the following items of income (to the extent such
21 income is included in federal adjusted gross income):

1 (i) income from ~~United States~~ U.S. government obligations;

2 (ii) with respect to adjusted net capital gain income as defined in
3 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend
4 income: either the first \$5,000.00 of such adjusted net capital gain income; or
5 40 percent of adjusted net capital gain income from the sale of assets held by
6 the taxpayer for more than three years, except not adjusted net capital gain
7 income from:

8 (I) the sale of any real estate or portion of real estate used by
9 the taxpayer as a primary or nonprimary residence; or

10 (II) the sale of depreciable personal property other than farm
11 property and standing timber; or stocks or bonds publicly traded or traded on
12 an exchange, or any other financial instruments; regardless of whether sold by
13 an individual or business;

14 and provided that the total amount of decrease under this
15 subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable
16 income; ~~and~~

17 (iii) recapture of State and local income tax deductions not taken
18 against Vermont income tax; and

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

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* * *

Sec. 11. 32 V.S.A. § 9741(51) is added to read:

(51) Marijuana sold by a dispensary as authorized under 18 V.S.A. chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

Sec. 12. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 3, 8, and 9 shall take effect on passage.

(b) Secs. 4 through 7 shall take effect on July 1, 2019.

(c) Sec. 10 shall take effect on January 1, 2019 and shall apply to taxable year 2018 and after.

(d) Sec. 11 shall take effect on January 2, 2019.