

# Senate Calendar

WEDNESDAY, FEBRUARY 27, 2019

SENATE CONVENES AT: 1:00 P.M.

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF THURSDAY, FEBRUARY 21, 2019**

**Second Reading**

**Favorable with Proposal of Amendment**

**H. 3.**

An act relating to ethnic and social equity studies standards for public schools.

**Reported favorably with recommendation of proposal of amendment by Senator Ingram for the Committee on Education.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ETHNIC AND SOCIAL EQUITY STANDARDS ADVISORY  
WORKING GROUP

(a) Findings.

(1) In 1999, the Vermont Advisory Committee to the U.S. Commission on Civil Rights published a report titled Racial Harassment in Vermont Public Schools and described the state of racism in public schools. The Committee held various hearings and received reports from stakeholders and concluded that “racial harassment” appeared “pervasive in and around the State’s public schools,” and observed that “the elimination of this harassment” was “not a priority among school administrators, school boards, elected officials, and State agencies charged with civil rights enforcement.”

(2) In 2003, the Commission released a follow-up report concluding that, although some positive efforts had been made since the original report was published, the problem persisted. One of the many problems highlighted at that time was that some curriculum materials and lesson plans promoted racial stereotypes. One of the conclusions was that there was a need for a bias-free curriculum.

(3) In December 2017, the Act 54 report on Racial Disparities in State Systems, issued by the Attorney General and Human Rights Commission Task Force, was released. According to the report, education is one of the five State systems in which racial disparities persist and need to be addressed. The Attorney General and Human Rights Commission held three stakeholder

meetings and found “a surprising amount of coalescence around the most important issues” and “the primary over-arching theme was that we will be able to reduce racial disparities by changing the underlying culture of our state with regard to race.” One of the main suggestions for accomplishing this was to “teach children from an integrated curriculum that fairly represents both the contributions of People of Color (as well as indigenous people, women, people with disabilities, etc.), while fairly and accurately representing our history of oppression of these groups.” The other suggestions were to educate State employees about implicit bias, white privilege, white fragility, and white supremacy and increase the representation of people of color in the State and school labor forces by focusing on recruitment, hiring, and retention, as well as promotion of people of color into positions of authority and responsibility on boards and commissions.

(4) According to the U.S. Department of Justice report on hate crimes in Vermont in 2017, 51 percent of hate crimes were based on a motivation involving racial bias, 23 percent of hate crimes were based on a motivation involving sexual orientation bias, 17 percent of hate crimes were based on a motivation involving religious bias, and 9 percent of hate crimes were based on a motivation involving disability bias.

(5) Acts of harassment and discrimination based on religious affiliation, including but not limited to anti-Semitism and Islamophobia, have been reported in recent Vermont news reports.

(6) Hate symbols have in recent years appeared with disturbing frequency at schools, in public spaces, places of worship, and places of business.

(7) The harassment of marginalized groups, and the lack of understanding of people in power about the magnitude of the systemic impacts of harassment and bias, damage the whole community.

(b) Definitions. As used in this act:

(1) “Ethnic groups” means:

(A) nondominant racial and ethnic groups in the United States, including people who are Abenaki, people from other indigenous groups, people of African, Asian, Pacific Island, Chicanx, Latinx, or Middle Eastern descent; and

(B) groups that have been historically subject to persecution or genocide.

(2) “Ethnic studies” means the instruction of students in prekindergarten through grade 12 in the historical contributions and perspectives of ethnic groups and social groups.

(3) “Social groups” means women and girls, people with disabilities, immigrants, refugees, and individuals who are lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, or nonbinary.

(c) Creation and composition. The Ethnic and Social Equity Standards Advisory Working Group is established. The Working Group shall comprise the following 20 members:

(1) 10 members who are members of, and represent the interests of, ethnic groups and social groups, two of whom shall be high school students;

(2) a Vermont-based, college-level faculty expert in ethnic studies;

(3) the Secretary of Education or designee;

(4) the Executive Director of the Vermont-National Education Association or designee;

(5) the Executive Director of Racial Equity or designee;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) a representative for the Vermont Principals’ Association with expertise in the development of school curriculum;

(8) a representative for the Vermont Curriculum Leaders Association;

(9) the Executive Director of the Vermont Superintendents Association or designee;

(10) the Executive Director of the Vermont Independent Schools Association or designee; and

(11) the Executive Director of the Vermont Human Rights Commission or designee.

(d) Appointment and operation.

(1) The Vermont Coalition for Ethnic and Social Equity in Schools (Coalition) shall appoint the 10 members who represent ethnic groups and social groups and the member identified under subdivision (c)(2) of this section. Appointments of members to fill vacancies to these positions shall be made by the Coalition.

(2) As a group, the Working Group shall represent the breadth of geographic areas within the State and shall have experience in the areas of

ethnic standards or studies, social justice, inclusivity, and advocacy for the groups they represent.

(3)(A) The Secretary of Education or designee shall call the first meeting of the Working Group to occur on or before September 1, 2019.

(B) The Working Group shall select a chair from among its members at the first meeting.

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

(D) The Working Group shall cease to exist on July 1, 2022.

(e) Compensation and reimbursement. Members of the Working Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than ten meetings per year. These payments shall be made from monies appropriated to the Agency of Education.

(f) Appropriation. The sum of \$15,860.00 is appropriated to the Agency of Education from the General Fund for fiscal year 2020 for the per diem compensation and expense reimbursements authorized by subsection (e) of this section to be paid to the members of the Ethnic and Social Equity Standards Advisory Working Group. The Agency shall include in its budget request to the General Assembly for fiscal years 2021 and 2022 the amount of \$15,860.00 for the per diem compensation and expense reimbursements authorized by subsection (e) of this section to be paid to members of the Working Group.

(g) Duties of the Working Group.

(1) The Working Group shall review standards for student performance adopted by the State Board of Education under 16 V.S.A. § 164(9) and, on or before June 30, 2021, recommend to the State Board updates and additional standards to recognize fully the history, contributions, and perspectives of ethnic groups and social groups. These recommended additional standards shall be designed to:

(A) increase cultural competency of students in prekindergarten through grade 12;

(B) increase attention to the history, contribution, and perspectives of ethnic groups and social groups;

(C) promote critical thinking regarding the history, contributions, and perspectives of ethnic groups and social groups;

(D) commit the school to eradicating any racial bias in its curriculum;

(E) provide, across its curriculum, content and methods that enable students to explore safely questions of identity, race equality, and racism; and

(F) ensure that the basic curriculum and extracurricular programs are welcoming to all students and take into account parental concerns about religion or culture.

(2) The Working Group may review State statutes, State Board rules, and school district and supervisory union policies that concern or impact standards for student performance or curriculum used in schools. The State Board may recommend to the General Assembly proposed statutory changes with the following goals:

(A) ensuring that schools:

(i) promote critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups;

(ii) include content and related instructional materials and methods that enable students to explore safely questions of identity and membership in ethnic groups and social groups, race equality, and racism; and

(iii) facilitate a welcoming environment for all students while taking into account parental concerns about bias or exclusion of ethnic groups or social groups; and

(B) ensuring engagement opportunities that provide families a welcoming means of raising any concern about their child's experience as it bears on race or ethnic or social group identity at school.

(3) The Working Group shall include in its report to the General Assembly under subdivisions (h)(2) and (3) of this section any statute, State Board rule, or school district or supervisory union policy that it has identified as needing review or amendment in order to:

(A) promote an overarching focus on preparing all students to participate effectively in an increasingly racially, culturally, and socially diverse Vermont and in global communities;

(B) ensure every student is in a safe, secure, and welcoming learning and social environment in which bias, whether implicit or explicit, toward others based on their membership in ethnic or social groups is acknowledged and addressed appropriately;

(C) challenge racist, sexist, or ableist bias, or bias based on gender or socioeconomic status, using principles aligned with restorative practice;

(D) specify prohibited conduct as it relates to racism, sexism, ableism, and other ethnic and social biases and refers to the process through which alleged misconduct will be addressed, including disciplinary action as appropriate;

(E) establish disciplinary responses to racial or ethnic and social group incidents that include the utilization of restorative practices where appropriate; and

(F) ensure that the school diversifies its workforce and provides its personnel training in how best to address bias incidents.

(h) Reports.

(1) The Working Group shall, on or before March 1, 2020, submit a report to the General Assembly that includes:

(A) the membership of the Working Group and its meeting schedule;

(B) its plan to accomplish the work described in subdivision (g)(1) of this section; and

(C) its plan to accomplish the work described in subdivisions (g)(2) and (3) of this section.

(2) The Working Group shall, on or before December 15, 2020, submit a report to the General Assembly that includes:

(A) the membership of the Working Group and its meeting schedule;

(B) recommended statutory changes under subdivisions (g)(2) and (3) of this section;

(C) its findings from its review of State Board rules and school district and supervisory union policies under subdivisions (g)(2) and (3) of this section; and

(D) recommendations for training and appropriations to support implementation of the recommended statutory changes.

(3) The Working Group shall, on or before July 1, 2022, submit a report to the General Assembly that includes:

(A) any further recommended statutory changes under subdivisions (g)(2) and (3) of this section;

(B) any further findings from its review of State Board rules and school district and supervisory union policies under subdivisions (g)(2) and (3) of this section; and

(C) recommendations for training and appropriations to support implementation of the recommended changes.

(i) Duties of the State Board of Education. The Board of Education shall, on or before June 30, 2022, consider adopting ethnic and social equity studies standards into standards for student performance adopted by the State Board under 16 V.S.A. § 164(9) for students in prekindergarten through grade 12, taking into account the report submitted by the Working Group under subdivision (g)(1) of this section.

Sec. 2. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary; engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont. In addition to other specified duties, the Board shall:

\* \* \*

(17) Report annually on the condition of education statewide and on a school-by-school supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on student performance and hazing, harassment, or bullying incidents shall be disaggregated by student groups, including ethnic, racial, and religious groups, gender, sexual orientation, gender identity, poverty status, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

\* \* \*

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

(For House amendments, see House Journal for January 31, 2019, pages 86 - 99.)

**Reported favorably with recommendation of proposal of amendment by Senator McCormack for the Committee on Appropriations.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Education with the following amendments thereto:

First: In Sec. 1, in subdivision (d)(3), by inserting a subdivision (E) to read as follows:

(E) The Working Group shall have the assistance of the Agency of Education for the purposes of scheduling meetings and processing compensation and reimbursement pursuant to subsection (e) of this section.

Second: In Sec. 1 in subsection (h) (2)(B) before the word “recommended” by adding the word any in subdivision (2)(D) before the word “recommendations” by adding the word any and in subdivision (3)(C) before the word “recommendations” by adding the word any

Third: By striking out Sec. 2 in its entirety and by inserting in lieu thereof the following:

Sec. 2. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary; engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont. In addition to other specified duties, the Board shall:

\* \* \*

(17) Report annually on the condition of education statewide and on a ~~school-by-school~~ supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures,

and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on hazing, harassment, or bullying incidents shall be disaggregated by incident type, including disaggregation by ethnic groups, racial groups, religious groups, gender, sexual orientation, gender identity, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

\* \* \*

(Committee vote: 7-0-0)

**Amendment to proposal of amendment of the Committee on Education to H. 3 to be offered by Senator Sears**

Senator Sears moves to amend the proposal of amendment of the Committee on Education in Sec. 1, subsection (a) (findings), by striking out subdivision (4) in its entirety and inserting in lieu thereof the following:

(4) According to the U.S. Department of Justice report on hate crimes in Vermont in 2017, of the 35 hate crimes reported in 2017, 51 percent were based on a motivation involving racial bias, 23 percent were based on a motivation involving sexual orientation bias, 17 percent were based on a motivation involving religious bias, and 9 percent were based on a motivation involving disability bias.

**NEW BUSINESS**

**Third Reading**

**S. 89.**

An act relating to allowing reflective health benefit plans at all metal levels.

## Second Reading

### Favorable with Recommendation of Amendment

#### S. 18.

An act relating to consumer justice enforcement.

**Reported favorably with recommendation of amendment by Senator White for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 152 is added to read:

#### CHAPTER 152. MODEL STATE CONSUMER JUSTICE ENFORCEMENT ACT; STANDARD-FORM CONTRACTS

#### § 6055. UNCONSCIONABLE TERMS IN STANDARD-FORM CONTRACTS PROHIBITED

(a) Unconscionable terms. There is a rebuttable presumption that the following contractual terms are substantively unconscionable when included in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract:

(1) A requirement that resolution of legal claims takes place in an inconvenient venue. As used in this subdivision, “inconvenient venue” for State law claims means a place other than the state in which the individual resides or the contract was consummated, and for federal law claims means a place other than the federal judicial district where the individual resides or the contract was consummated. Notwithstanding this subdivision, a standard-form contract may include a term requiring that resolution of legal claims takes place in a State or federal court in Vermont.

(2) A waiver of the individual’s right to assert claims or seek remedies provided by State or federal statute.

(3) A waiver of the individual’s right to seek punitive damages as provided by law.

(4) Pursuant to 12 V.S.A. § 465, a provision that limits the time in which an action may be brought under the contract or that waives the statute of limitations.

(5) A requirement that the individual pay fees and costs to bring a legal claim substantially in excess of the fees and costs that this State’s courts

require to bring such a State law claim or that federal courts require to bring such a federal law claim.

(b) Relation to common law and the Uniform Commercial Code. In determining whether the terms described in subsection (a) of this section are unenforceable, a court shall consider the principles that normally guide courts in this State in determining whether unconscionable terms are enforceable. Additionally, the common law and Uniform Commercial Code shall guide courts in determining the enforceability of unfair terms not specifically identified in subsection (a) of this section.

(c) Severability.

(1) If a court finds that a standard-form contract contains an illegal or unconscionable term, the court shall:

(A) refuse to enforce the entire contract or the specific part, clause, or provision containing the illegal or unconscionable term; or

(B) so limit the application of the illegal or unconscionable term or the clause containing such term as to avoid any illegal or unconscionable result.

(2) In performing its analysis under this subsection (c), the court shall consider the actual purposes of the contracting parties and whether severing the term would create an incentive for contract drafters to include similar illegal or unconscionable terms.

(d) Unfair and deceptive act and practice.

(1) In an underlying legal dispute between the drafting and nondrafting parties in which the drafting party seeks to enforce one or more terms identified in subsection (a) of this section, and upon a finding that such terms are actually unconscionable, the court may also find that the drafting party has thereby committed an unfair and deceptive practice in violation of section 2453 of this title and may order up to \$1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(2) Each term found to be unconscionable pursuant to subsection (a) of this section shall constitute a separate violation of this section.

(e) Limitation on applicability. This section shall not apply to the following contracts:

(1) A contract to which one party is:

(A) regulated by the Vermont Department of Financial Regulation; or

(B) a financial institution as defined by 8 V.S.A. § 11101(32).

(2) A contract for the nondrafting party's enrollment or participation in a recreational activity, sport, or competition.

Sec. 2. EFFECTIVE DATE

This act shall take effect on October 1, 2020.

(Committee vote: 4-1-0)

**NOTICE CALENDAR**

**Committee Resolution for Second Reading**

**Favorable**

**J.R.S. 13.**

Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to amend the Department's lease with the Okemo Limited Liability Company and to authorize a conveyance of Woodchuck Mountain in Newbury as an alternative to the conveyance authorized in 2002 Acts and Resolves No. 149, Sec. 83(a)(3).

**By the Committee on Institutions. (Sen. Hooker for the Committee.)**

**Reported favorably by Senator Sirotkin for the Committee on Finance.**

(Committee vote: 6-0-1)

(For text of Resolution, see Senate Journal for February 6, 2019, page 76.)

**Second Reading**

**S. 109.**

An act relating to captive insurance companies and risk retention groups.

**Reported favorably by Senator Balint for the Committee on Finance.**

(Committee vote: 6-0-1)

**Favorable with Recommendation of Amendment**

**S. 54.**

An act relating to the regulation of cannabis.

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Title Redesignation \* \* \*

Sec. 1. Title 7 of the V.S.A. is redesignated to read:

7. ALCOHOLIC BEVERAGES, CANNABIS, AND TOBACCO

\* \* \* Cannabis Generally; Cannabis Control Board \* \* \*

Sec. 2. 7 V.S.A. chapter 31 is added to read:

CHAPTER 31. CANNABIS

Subchapter 1. General Provisions

§ 831. DEFINITIONS

As used in this chapter:

(1) “Board” means the Cannabis Control Board.

(2)(A) “Cannabis” means all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (2), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Cannabis” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

(3) “Cannabis product” means concentrated cannabis and a product that is composed of cannabis and other ingredients and is intended for use or consumption, including an edible product, ointment, and tincture.

(4) “Chair” means the chair of the Cannabis Control Board.

(5) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a

lighted tobacco product, tobacco product, or tobacco substitute as defined in section 1001 of this title is prohibited by law.

§ 832. CANNABIS POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

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

§ 833. CONSUMPTION OF CANNABIS IN A PUBLIC PLACE

No person shall consume cannabis in a public place unless specifically authorized by law. Violations shall be punished in accordance with 18 V.S.A. § 4230a.

Subchapter 2. Cannabis Control Board

§ 841. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

(a) Creation. There is created within the Executive Branch an independent commission named the Cannabis Control Board for the purpose of safely, equitably, and effectively implementing and administering the laws enabling access to medical and adult-use cannabis in Vermont.

(b) Duties. The duties of the Board shall be:

(1) rulemaking in accordance with this chapter, chapters 33–37 of this title, and 3 V.S.A. chapter 25;

(2) administration of a program for licensed cannabis establishments, which shall include compliance and enforcement;

(3) administration of the Medical Cannabis Registry on and after January 1, 2021;

(4) administration of a program for licensed medical cannabis dispensaries, which shall include compliance and enforcement, on and after January 1, 2021; and

(5) submission of an annual budget to the Governor.

(c) Membership.

(1) The Board shall consist of five members who shall be appointed as follows:

(A) one member who shall be appointed by the Governor and who shall have a background in consumer protection;

(B) one member who shall be appointed by the Senate Committee on Committees and who shall have a background in agriculture, horticulture, or plant science;

(C) one member who shall be appointed by the Speaker of the House and who shall have a background in systemic social justice and equity issues;

(D) one member who shall be appointed by the Treasurer and who shall have a background in business management or corporate structures; and

(E) one member who shall be appointed by the Attorney General and who shall have a background in legal or regulatory compliance.

(2) Board members shall serve for a term of three years or until a successor is appointed and shall be eligible for reappointment, provided that no member may serve more than nine years.

(3) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of subdivision (2) of this subsection.

(4) A member may be removed only for cause by the remaining members of the Commission in accordance with the Vermont Administrative Procedure Act.

(5) The Board shall elect a chair from among its membership.

(d)(1) Conflicts of interest. No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to regulation by the Board.

(2) No Board member shall participate in creating or applying any law, rule, or policy or in making any other determination if the Board member, individually or as a fiduciary, or the Board member's spouse, parent, or child wherever residing or any other member of the Board member's family residing in his or her household has an economic interest in the matter before the Board or has any more than a de minimus interest that could be substantially affected by the proceeding.

(3) No Board member shall, during his or her term or terms on the Board, solicit, engage in negotiations for, or otherwise discuss future employment or a future business relationship of any kind with any person subject to supervision or regulation by the Board.

(4) No Board member may appear before the Board or any other State agency on behalf of a person subject to supervision or regulation by the Board

for a period of one year following his or her last day as a member of the Cannabis Control Board.

(e) Salaries. The Chair and all members of the Board shall be full-time State employees and shall be exempt from the State classified system. Members shall receive compensation equal to one-third that of a Superior judge.

(f) Executive Director. The Board shall appoint an Executive Director. The Director shall be a full-time State employee and shall be exempt from the State classified system. The Director shall be responsible for:

(1) supervising and administering the operation and implementation of this chapter and the rules adopted by the Board as directed by the Board;

(2) assisting the Board in its duties and administering the licensing requirements of this chapter;

(3) acting as Secretary to the Board, but as a nonvoting member of the Board;

(4) employing such staff as may be required to carry out the functions of the Board; and

(5) preparing an annual budget for submission to the Board.

(g) Consultant. The Board is authorized to hire a consultant as needed to assist with its duties under this section.

(h) The Board may establish an advisory committee composed of members with expertise and knowledge relevant to the Board's mission.

#### § 842. AUTHORITY FOR CRIMINAL BACKGROUND CHECKS

The Board shall establish a user agreement with the Vermont Crime Information Center in accordance with 20 V.S.A. chapter 117 for the purpose of obtaining Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation as required by chapters 33 (cannabis establishments) and 37 (medical cannabis dispensaries) of this title.

#### § 843. CANNABIS REGULATION FUND

(a) There is established the Cannabis Regulation Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. The Fund shall be maintained by the Cannabis Control Board.

(b) The Fund shall be composed of:

(1) all application fees, annual license fees, renewal fees, and civil penalties collected by the Board pursuant to chapters 33 (cannabis establishments) and 37 (medical cannabis dispensaries) of this title; and

(2) all annual and renewal fees collected by the Board pursuant to chapter 35 (medical cannabis registry) of this title.

(c) Monies from the fund shall only be appropriated for the purposes of implementation, administration, and enforcement of this chapter and chapters 33 (cannabis establishments), chapter 35 (medical cannabis registry), and 37 (medical cannabis dispensaries).

#### § 844. FEES

(a) The Board shall have the authority to charge and collect fees as provided by this chapter and chapters 33–37 of this title.

(b) Fees shall be deposited in the Cannabis Regulation Fund.

#### Sec. 3. IMPLEMENTATION OF THE CANNABIS CONTROL BOARD

(a) The Cannabis Control Board, created in Sec. 2 of this act, is established on July 1, 2019.

(b) Members of the Commission shall be appointed on or before September 1, 2019 and terms of members shall officially begin on such date.

(c)(1) In order to stagger the terms of the members of the Board, the initial terms of those members shall be as follows:

(A) the Governor shall appoint one member for a three-year term;

(B) the Governor shall appoint one member for a one-year term;

(C) the Senate Committee on Committees shall appoint one member for a two-year term;

(D) the Speaker of the House shall appoint one member for a two-year term; and

(E) the Attorney General shall appoint one member for a one-year term.

(2) After the expiration of the initial terms set forth in subdivision (1) of this subsection, Board member terms shall be as set forth in 7 V.S.A. § 841.

#### Sec. 4. IMPLEMENTATION OF RULEMAKING BY THE CANNABIS CONTROL BOARD

On or before October 15, 2019, the Cannabis Control Board shall initiate rulemaking for cannabis establishments pursuant to 7 V.S.A. § 881 as provided

in Sec. 7 of this act, the Medical Cannabis Registry pursuant to 7 V.S.A. § 952 as provided in Sec. 9 of this act, and medical cannabis dispensaries pursuant to 7 V.S.A. § 974 as provided in Sec. 12 of this act.

Sec. 5. CANNABIS CONTROL BOARD; FEES; REPORT

(a) On or before January 15, 2020, the Executive Director of the Cannabis Control Board shall provide recommendations for the following fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 844 to the General Assembly on or before January 15, 2020. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d).

(1) Application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license as provided in 7 V.S.A. § 909: cultivator, product manufacturer, wholesaler, retailer, and testing laboratory. If the Board establishes tiers within a licensing category, it shall provide a fee recommendation for each tier.

(2) Fee for a cannabis establishment identification card as provided in 7 V.S.A. § 884.

(3) Initial annual fee and annual renewal fee for a patient on the Medical Cannabis Registry as provided in 7 V.S.A. § 955.

(4) Initial annual fee and annual renewal fee for a caregiver on the Medical Cannabis Registry as provided in 7 V.S.A. § 955.

(5) Application fee, initial annual fee, and annual renewal fee for medical cannabis dispensaries.

(6) Fee for a medical cannabis dispensary identification card as provided in 7 V.S.A. § 975.

(b) On or before January 15, 2020, the Executive Director of the Cannabis Control Board shall submit to the General Assembly the Board's information regarding the following:

(1) Resources necessary for implementation of this act for fiscal year 2021. The Board shall consider utilization of current expertise and resources within State government and cooperation with other State departments and agencies where there may be an overlap in duties.

(2) A proposal to work with the Department of Labor, Agency of Commerce and Community Development, and the Department of Corrections to develop outreach, training and employment programs focused on providing economic opportunities to individuals who historically have been disproportionately impacted by cannabis prohibition.

(3) The experience of other jurisdictions with regulated cannabis markets that allow licensed retail cannabis establishments to deliver to customers and the advantages and disadvantages of allowing such deliveries in Vermont.

Sec. 6. CANNABIS CONTROL BOARD; POSITIONS

The following new permanent positions are created in the Cannabis Control Board:

- (1) Five full-time, exempt members of the Board;
- (2) One full-time, exempt Executive Director of the Board; and
- (3) One full-time, classified Administrative Assistant.

Sec. 6a. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space for the Cannabis Control Board established in Sec. 2 of this act. This space shall be allocated on or before September 1, 2019.

\* \* \* Cannabis Establishments \* \* \*

Sec. 7. 7 V.S.A. chapter 33 is added to read:

CHAPTER 33. CANNABIS ESTABLISHMENTS

Subchapter 1. General Provisions

§ 861. DEFINITIONS

As used in this chapter:

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

(2) “Applicant” means a person that applies for a license to operate a cannabis establishment pursuant to this chapter.

(3) “Board” means the Cannabis Control Board.

(4) “Cannabis” shall have the same meaning as provided in section 831 of this title.

(5) “Cannabis cultivator” or “cultivator” means a person licensed by the Board to engage in commercial cultivation of cannabis in accordance with this chapter.

(6) “Cannabis establishment” means a cannabis cultivator, wholesaler, product manufacturer, retailer, or testing laboratory licensed by the Board to engage in commercial cannabis activity in accordance with this chapter.

(7) “Cannabis product” means concentrated cannabis and a product that is composed of cannabis and other ingredients and is intended for use or consumption, including an edible product, ointment, and tincture.

(8) “Cannabis product manufacturer” or “product manufacturer” means a person licensed by the Board to manufacture, prepare, and package cannabis products and to sell cannabis products to a licensed retailer, wholesaler, or another product manufacturer in accordance with this chapter.

(9) “Cannabis retailer” or “retailer” means a person licensed by the Board to sell cannabis and cannabis products to consumers for off-site consumption in accordance with this chapter.

(10) “Cannabis testing laboratory” or “testing laboratory” means a person licensed by the Board to test cannabis for cultivators, product manufacturers, wholesalers, and retailers, in accordance with this chapter.

(11) “Cannabis wholesaler” or “wholesaler” means a person licensed by the Board to buy cannabis from cultivators and process, transport, and sell cannabis to licensed product manufacturers and retailers.

(12) “Chair” means the Chair of the Cannabis Control Board.

(13) “Controls,” “is controlled by,” and “under common control” mean 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, or otherwise. A person who directly or beneficially owns 10 percent or more equity interest, or the equivalent thereof, of another person shall be deemed to control the person.

(14) “Dispensary” means a business organization licensed pursuant to chapter 37 of this title.

(15) “Enclosed, locked facility” shall be either indoors or outdoors, not 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:

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

(B) Government employees performing their official duties.

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

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

(16) “Municipality” means a town, city, or incorporated village.

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

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

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

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

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

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

§ 862. NOT APPLICABLE TO HEMP OR MEDICAL USE OF CANNABIS

This chapter applies to the regulation of cannabis establishments by the Board and shall not apply to activities regulated by 6 V.S.A. chapter 34 (hemp), 18 V.S.A. chapter 84 (therapeutic use of cannabis), or chapters 35

(Medical Cannabis Registry) and 37 of this title (cannabis medical dispensaries).

#### § 863. REGULATION BY LOCAL GOVERNMENT

(a)(1) A municipality, by majority vote of those present and voting at an annual or special meeting warned for that purpose, may prohibit the operation of a cannabis establishment or a specific type of cannabis establishment within the municipality. The provisions of this subdivision shall not apply to a cannabis establishment that is operating within the municipality at the time of the vote.

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

(b) A municipality that hosts a cannabis establishment may establish a cannabis control commission composed of commissioners who may be members of the municipal legislative body. The local cannabis control commission may administer municipal permits under this subsection for cannabis establishments within the municipality. The commissioners may condition the issuance of a municipal permit upon compliance with any bylaw adopted pursuant to 24 V.S.A. § 4414 or ordinances regulating signs or public nuisances adopted pursuant to 24 V.S.A. § 2291. The commission may suspend or revoke a local control permit for violation of any condition placed upon the issuance of the permit. The Board shall adopt rules relating to a municipality's issuance of a local permit for a cannabis establishment in accordance with this subsection. All applications for and forms of municipal licenses and permits shall be prescribed by the Board.

(c) A municipality shall not:

(1) prohibit the operation of a cannabis establishment within the municipality through an ordinance adopted pursuant to 24 V.S.A. § 2291 or a bylaw adopted pursuant to 24 V.S.A. § 4414;

(2) condition the operation of a cannabis establishment, or the issuance or renewal of a municipal permit to operate a cannabis establishment, on any basis other than the conditions in subsection (b) of this section; and

(3) exceed the authority granted to it by law to regulate a cannabis establishment.

#### § 864. ADVERTISING

(a) Cannabis advertising shall not contain any statement or illustration that:

- (1) is deceptive, false or misleading;
- (2) promotes overconsumption;
- (3) represents that the use of cannabis has curative effects;
- (4) depicts a person under 21 years of age consuming cannabis; or
- (5) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

(b) Cannabis establishments shall not advertise their products via flyers, television, radio, billboards, print, or Internet unless the licensee can show that no more than 30 percent of the audience is reasonably expected to be under 21 years of age.

(c) All advertising shall contain the following warnings:

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

(2) Cannabis has intoxicating effects and may impair concentration, coordination, and judgment.

#### § 865. EDUCATION

(a) A licensee shall complete an enforcement seminar every three years conducted by the Board. A license shall not be renewed unless the records of the Board show that the licensee has complied with the terms of this subsection.

(b) A licensee shall ensure that each employee involved in the sale of cannabis completes a training program approved by the Board prior to selling cannabis and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Board. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of not less than one day of the license issued under this chapter.

#### Subchapter 2. Administration

#### § 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–(5) of this subsection.

(1) Rules concerning any cannabis establishment shall include:

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

(B) qualifications for licensure that are directly and demonstrably related to the operation of a cannabis establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to section 883 of this title;

(C) oversight requirements;

(D) inspection requirements;

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

(F) employment and training requirements;

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

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

(I) health and safety requirements;

(J) regulation of additives to cannabis, including those that are toxic or designed to make the product more addictive, more appealing to persons under the age of 21, or to mislead consumers;

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

(L) regulation of the storage and transportation of cannabis;

(M) sanitary requirements;

(N) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the cannabis establishment's license;

(O) procedures for suspension and revocation of a license;

(P) requirements for banking and financial transactions; and

(Q) policies and procedures for conducting outreach and promoting participation in the regulated cannabis market by diverse groups of individuals, including those who have been disproportionately harmed by cannabis prohibition.

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

(i) creation of a tiered system of licensing based on square footage of cultivation space;

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

(iii) standards for both the indoor and outdoor cultivation of cannabis, including environmental protection requirements;

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

(v) labeling requirements for products sold to retailers that include appropriate warnings concerning the potential risks of consuming cannabis and the need to keep the product away from persons under 21 years of age;

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

(vii) facility inspection requirements and procedures.

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

(3) Rules concerning product manufacturers shall include:

(A) requirements that cannabis products are labeled in a manner which states the number of servings of delta-9 tetrahydrocannabinol in the product, measured in servings of a maximum of 10 milligrams per serving, except:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) cannabis products sold to a dispensary pursuant to 7 V.S.A. chapter 37 and regulations issued pursuant to that chapter;

(B) requirements that a single package of a cannabis product shall not contain more than 100 milligrams of THC, except in the case of:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) cannabis products sold to a dispensary pursuant to 7 V.S.A. chapter 37 and regulations issued pursuant to that chapter;

(C) requirements for opaque, child-resistant packaging;

(D) requirements for labeling of cannabis products that include the length of time it typically takes for products to take effect and appropriate warnings concerning the potential risks of consuming cannabis and the need to keep the product away from persons under the age of 21;

(E) requirements that a cannabis product is clearly identifiable with a standard symbol indicating that it contains cannabis; and

(F) a prohibition on:

(i) products or packaging that are designed to make the product more appealing to persons under 21 years of age; and

(ii) the inclusion of nicotine or alcoholic beverages in a cannabis product.

(4) Rules concerning retailers shall include:

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

(B) restrictions that cannabis shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the cannabis;

(C) requirements that if the retailer sells hemp or hemp products, the hemp and hemp products are clearly labeled as such and displayed separately from cannabis and cannabis products; and

(D) facility inspection requirements and procedures.

(5) Rules concerning testing laboratories shall include:

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

(B) reporting requirements, including requirements for chain-of-custody record keeping; and

(C) procedures for destruction of all cannabis and cannabis products samples.

(b) The Board shall consult with other State agencies and departments as necessary in the development and adoption of rules where there is shared expertise and duties.

#### § 882. SUSPENSION AND REVOCATION OF LICENSES; CIVIL VIOLATIONS

(a) The Board shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to this chapter.

(b) The Board shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to this chapter. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

§ 883. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS

(a) The Board shall obtain from the Vermont Crime Information Center a copy of a license applicant's fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(b) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a cannabis establishment license because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

§ 884. CANNABIS ESTABLISHMENT IDENTIFICATION CARD

(a) Every owner, principal, and employee of a cannabis establishment shall obtain an identification card issued by the Board.

(b)(1) Prior to issuing the identification card, the Board shall obtain from the Vermont Crime Information Center a copy of the person's Vermont fingerprint-based criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(2) The Board shall adopt rules that set forth standards for determining whether a person should be denied a cannabis establishment identification card because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

(c) Once an identification card application has been submitted, a person may serve as an employee of a cannabis establishment pending the background check, provided the person is supervised in his or her duties by someone who is a cardholder. The Board shall issue a temporary permit to the person for this purpose, which shall expire upon the issuance of the identification card or disqualification of the person in accordance with this section.

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

Subchapter 3. Licenses

§ 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.

(b) All licenses shall expire at midnight on April 30 of each year, beginning not earlier than 10 months after the original license was issued to the cannabis establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Board and shall be accompanied by the fees provided for in section 909 of this title.

(d)(1) There shall be five types of licenses available:

- (A) a cultivator license;
- (B) a wholesaler license;
- (C) a product manufacturer license;
- (D) a retailer license; and
- (E) a testing laboratory license.

(2) The Board shall develop tiers for cultivator licenses based on the plant canopy size of the cultivation operation or plant count for breeding stock and may develop tiers for other licenses as appropriate.

(3) An applicant and its affiliates may obtain a maximum of one type of each license under this chapter. Each license shall permit only one location of the establishment. A dispensary license issued pursuant to chapter 37 of this title does not count toward the license limits provided in this section.

(e) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Board.

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

(g)(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; 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).

§ 902. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

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

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

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

(b) As part of the application process, each applicant shall submit, in a format prescribed by the Board, an operating plan. The Board shall adopt rules regarding the required components of an application for each type of license.

(c) The Board shall obtain a fingerprint-based Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) the applicant;

(2) each proposed principal;

(3) each individual who would control the business.

§ 903. PRIORITIES

(a) The Board shall issue licenses pursuant to this chapter as determined according to a system of priorities adopted by rule by the Board. The system of priorities shall require consideration of criteria, including:

(1) whether the applicants, a majority of principals, and those holding majority control of the proposed business are residents of Vermont;

(2) whether the applicants have an existing medical cannabis dispensary license in good standing;

(3) whether the applicants would foster social justice and equity in the cannabis industry by being a minority or women-owned business;

(4) whether the applicants propose specific plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who have historically been disproportionately impacted by cannabis prohibition;

(5) whether applicants propose specific plans to pay employees a living wage and offer benefits;

(6) whether the project incorporates principles of environmental resiliency or sustainability, including energy efficiency; and

(7) the geographic distribution of cannabis establishments based on population and market needs.

(b) In an annual license renewal application, a cannabis establishment that was granted a priority license based on this section shall include information demonstrating that it continues to satisfy such criteria.

#### § 904. CULTIVATOR LICENSE

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

(b) Cultivation of cannabis shall occur only in an enclosed, locked facility.

(c) Representative samples of each lot or batch of cannabis intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Board.

(d) Each cultivator shall create packaging for its cannabis.

(1) Packaging shall include:

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

(B) The strain of cannabis contained. Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and shall reflect properties of the plant.

(C) The potency of the cannabis represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

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

(E) Appropriate warnings as prescribed by the Board in rule.

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

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

(e)(1) Only unadulterated cannabis shall be offered for sale. If, upon inspection, the Board finds any violative pesticide residue or other contaminants of concern, the Board shall order the cannabis, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Board's instructions.

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

(3) A person may appeal an order issued pursuant to this section within 15 days after receiving the order. The appeal shall be made in writing to the Secretary and shall clearly identify the cannabis affected and the basis for the appeal.

#### § 905. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

(1) purchase cannabis from licensed cultivators and cannabis products from licensed product manufacturers;

(2) transport, possess, package, and sell cannabis and cannabis products to a licensed product manufacturer, retailer, and dispensary.

#### § 906. PRODUCT MANUFACTURER LICENSE

A product manufacturer licensed under this chapter may:

(1) purchase cannabis from licensed cultivators and wholesalers and cannabis products from licensed wholesalers and product manufacturers;

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

(3) transport, possess, package, and sell cannabis products to licensed wholesalers, product manufacturers, and retailers.

#### § 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator or wholesaler and cannabis products from a licensed wholesaler or licensed product manufacturer; and

(2) transport, possess, and sell cannabis and cannabis products to the public for consumption off the registered premises.

(b) In a single transaction, a retailer may provide one ounce of cannabis or the equivalent in cannabis products, or a combination thereof, to a person 21

years of age or older upon verification of a valid government-issued photograph identification card.

(c)(1) Packaging shall include:

(A) The strain of cannabis contained. Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and shall reflect properties of the plant.

(B) The potency of the cannabis represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(C) A “produced on” date reflecting the date that the cultivator finished producing the cannabis.

(D) Appropriate warnings as prescribed by the Board in rule.

(E) Any additional requirements contained in rules adopted by the Board in accordance with this chapter.

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

(d) A retailer shall display a safety information flyer or flyers developed or approved by the Board and supplied to the retailer free of charge. The flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for cannabis products to take effect, the risks of driving under the influence of cannabis, the potential risks of cannabis use, the symptoms of problematic usage, and how to receive help for cannabis abuse.

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

#### § 908. TESTING LABORATORY LICENSE

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

(b) Testing may address the following:

(1) residual solvents;

(2) poisons or toxins;

(3) harmful chemicals;

(4) dangerous molds, mildew, or filth;

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

(6) pesticides; and

(7) tetrahydrocannabinol and cannabidiol potency.

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

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

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

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

#### § 909. FEES

(a) The Board shall charge and collect license application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license under this chapter. Fees shall be due and payable at the time of license application, annual license, or renewal.

(b) Fees shall be deposited in the Cannabis Regulation Fund.

#### **Sec. 8. IMPLEMENTATION OF LICENSING CANNABIS ESTABLISHMENTS**

(a)(1) On or before September 15, 2020, the Board shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion. During this initial application period, the Board shall give preference to smaller cultivation operations in an effort to encourage small local farmers to enter the market.

(2) On or before December 1, 2020, the Board shall begin issuing cultivator and testing laboratory licenses to qualified applicants.

(b)(1) On or before November 15, 2020, the Board shall begin accepting applications for product manufacturer licenses and wholesaler licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before February 1, 2021, the Board shall begin issuing product manufacturer and wholesaler licenses to qualified applicants.

(c)(1) On or before January 15, 2021, the Board shall begin accepting applications for retailer licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before April 1, 2021, the Board shall begin issuing retailer licenses to qualified applicants.

\* \* \* Medical Cannabis Registry \* \* \*

Sec. 9. 7 V.S.A. chapter 35 is added to read:

CHAPTER 35. MEDICAL CANNABIS REGISTRY

§ 951. DEFINITIONS

As used in this chapter:

(1) “Board” means the Cannabis Control Board.

(2) “Cannabis” has the same meaning as provided in section 831 of this title.

(3) “Cannabis product” has the same meaning as provided in section 831 of this title.

(4) “Dispensary” means a business organization licensed under chapter 37 of this title.

(5)(A) “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

(6) “Immature cannabis plant” means a female cannabis plant that has not flowered and that does not have buds that may be observed by visual examination.

(7) “Mature cannabis plant” means a female cannabis plant that has flowered and that has buds that may be observed by visual examination.

(8) “Qualifying medical condition” means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, Crohn’s disease, Parkinson’s disease, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms;

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

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

(9) “Registry” means the Vermont Medical Cannabis Registry.

#### § 952. REGISTRY

(a) The Board shall establish and manage the Vermont Medical Cannabis Registry for the purpose of allowing persons with qualifying medical conditions and their caregivers to obtain privileges regarding cannabis and cannabis product possession, use, cultivation, and purchase.

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

(1) Cultivate no more than two mature and seven immature cannabis plants. Any cannabis harvested from the plants shall not count toward the three-ounce possession limit in subdivision (b)(2) of this section, provided it is stored in an indoor facility on the property where the cannabis was cultivated and reasonable precautions are taken to prevent unauthorized access to the cannabis.

(2) Possess not more than three ounces of cannabis.

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

(c)(1) Individual names and identifying information about patients and caregivers on the Registry are exempt from public inspection and copying under the Public Records Act and shall be kept confidential. 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).

(2) In response to a person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution, the Board may verify the identities and registered property addresses of the registered patient and the patient's registered caregiver. The law enforcement officer or agency shall keep confidential any identities and addresses received pursuant to this subdivision.

(d) The Board shall establish an application process through rulemaking.

#### § 953. PATIENTS

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

(b) An application by a person under 18 years of age shall be signed by both the applicant and the applicant's parent or guardian.

#### § 954. CAREGIVERS

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

(b)(1) Except as provided in subdivision (2) of this subsection, a caregiver shall serve only one patient at a time, and a patient shall have only one registered caregiver at a time. A patient may serve as a caregiver for one other patient.

(2) A patient who is under 18 years of age may have two caregivers.

#### § 955. REGISTRATION; FEES

(a) A registration card shall expire one year after the date of issuance. A patient or caregiver may renew the card according to protocols adopted by the Board.

(b) The Board shall charge and collect fees for annual registration for patients and caregivers. Fees shall be deposited in the Cannabis Regulation Fund as provided in section 843 of this title.

#### § 956. RULEMAKING

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

Sec. 10. IMPLEMENTATION OF MEDICAL CANNABIS REGISTRY

(a) On January 1, 2021, patients and caregivers who are on the Department of Public Safety's Medical Marijuana Registry pursuant to 18 V.S.A. chapter 86 shall transfer to the Cannabis Control Board's Medical Cannabis Registry pursuant to 7 V.S.A. chapter 35. At such time, those patients and caregivers will be entitled to the privileges afforded registrants under 7 V.S.A. chapter 35 and rules adopted by the Board pursuant to 7 V.S.A. chapter 35.

(b) The registration card of a patient or caregiver who transfers to the new Registry shall expire on the date of the registration card and a patient or caregiver who wishes to continue participation on the Registry shall renew the registration card under rules adopted by the Board.

Sec. 11. REPEAL

18 V.S.A. chapter 86 (therapeutic use of cannabis) is repealed.

\* \* \* Medical Cannabis Dispensaries \* \* \*

Sec. 12. 7 V.S.A. chapter 37 is added to read:

CHAPTER 37. MEDICAL CANNABIS DISPENSARIES

§ 971. INTENT; PURPOSE

(a) It is the intent of the General Assembly to provide a well-regulated system of licensed medical cannabis dispensaries for the purpose of providing cannabis, cannabis products, and related services to patients and caregivers who are registered on the Medical Cannabis Registry pursuant to chapter 35 of this title. Vermont first authorized dispensaries in 2011, and it is the intent of the General Assembly that dispensaries continue to provide unique goods and services to registered patients and caregivers for therapeutic purposes in a market that also allows cannabis establishments licensed pursuant to chapter 33 of this title.

(b) A dispensary licensed pursuant to this chapter may engage in practices that are not permitted for a cannabis establishment. As such, a dispensary may:

- (1) be vertically integrated under one license;
- (2) sell tax-free cannabis and cannabis products to patients and caregivers;
- (3) deliver cannabis and cannabis products to patients and caregivers;
- (4) allow patients and caregivers to purchase cannabis and cannabis products without leaving their vehicles;

(5) produce and sell cannabis and cannabis products that have a higher THC content than is permitted for a cannabis establishment;

(6) produce and sell cannabis products that may not otherwise be permitted for a cannabis establishment, but that would be appropriate for use by a patient as determined by the Board through rulemaking; and

(7) sell larger quantities of cannabis and cannabis products than is permitted for a cannabis establishment.

#### § 972. DEFINITIONS

As used in this chapter:

(1) “Board” means the Cannabis Control Board.

(2) “Cannabis” has the same meaning as provided in section 831 of this title.

(3) “Cannabis product” has the same meaning as provided in section 831 of this title.

(4) “Dispensary” means a business organization licensed under this chapter.

(5) “Registry” means the Vermont Medical Cannabis Registry.

#### § 973. DISPENSARY LICENSE

(a) A dispensary licensed pursuant to this chapter may:

(1) cultivate, package, label, test, and transport cannabis;

(2) produce, package, label, test, and transport cannabis products;

(3) sell and deliver cannabis and cannabis products to patients and caregivers registered under chapter 35 of this title;

(4) acquire, purchase, or borrow cannabis, cannabis products, and services from another licensed Vermont medical cannabis dispensary or give, sell, or lend cannabis, cannabis products, and services to another licensed Vermont medical cannabis dispensary; and

(5) purchase cannabis and cannabis products from a cannabis establishment licensed pursuant to chapter 33 of this title.

(b) All records relating to security, transportation, public safety, trade secrets, and employees in an application for a license and for a licensee under this chapter are exempt from public inspection and copying under the Public Records Act and shall be confidential. 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).

#### § 974. RULEMAKING

(a) The Board shall adopt rules to implement and administer this chapter. In adoption of rules, the Board shall strive for consistency with rules adopted for cannabis establishments pursuant to chapter 33 of this title where appropriate. No rule shall be more restrictive than any rule adopted by the Department of Public Safety pursuant to 18 V.S.A. chapter 86.

(b) Rules shall include:

(1) the form and content of license and renewal applications;

(2) qualifications for licensure that are directly and demonstrably related to the operation of a dispensary, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to section 975 of this title;

(3) oversight requirements;

(4) inspection requirements;

(5) records to be kept by licensees and the required availability of the records;

(6) employment and training requirements, including requiring that each employee have an identification badge;

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

(8) guidelines on advertising, marketing, and signage;

(9) health and safety requirements;

(10) procedures for suspension and revocation of a license;

(11) requirements for banking and financial transactions;

(12) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the cannabis establishment's license;

(13) restrictions on the use of pesticides that are injurious to human health;

(14) standards for both the indoor and outdoor cultivation of cannabis, including environmental protection requirements;

(15) regulation of additives to cannabis, prohibiting those that are toxic or designed to make the product more addictive, more appealing to persons under 21 years of age, or to mislead patients and caregivers;

(16) a prohibition on the inclusion of nicotine or alcoholic beverages in a cannabis product;

(17) requirements for opaque, child-resistant packaging of cannabis and cannabis products;

(18) labeling requirements for products sold to patients and caregivers that include:

(A) requirements that products are clearly identifiable with a standard symbol indicating that it is cannabis; and

(B) appropriate warnings concerning the potential negative consequences of consuming cannabis and the need to keep the product away from persons under 21 years of age;

(19) labeling requirements for cannabis products sold to patients and caregivers that include:

(A) requirements that cannabis products are clearly identifiable with a standard symbol indicating that it contains cannabis;

(B) identification of the amount of tetrahydrocannabinol and cannabidiol that constitutes a single serving; and

(C) the length of time it typically takes for products to take effect and appropriate warnings concerning the potential negative consequences of consuming cannabis and the need to keep the product away from persons under 21 years of age;

(20) limitations to a specific number of servings for each individual package of edible cannabis products with the exception of infused oils, powders, and liquids;

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

(22) regulation of the storage and transportation of cannabis and cannabis products;

(23) pricing guidelines with a goal of ensuring cannabis and cannabis products are sufficiently affordable to patients and caregivers;

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

(25) requirements for the dissemination of educational materials to consumers who purchase cannabis and cannabis products;

(26) requirements for verification of a customer's Registry status;

(27) restrictions that cannabis and cannabis products shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the cannabis or cannabis product;

(28) reporting requirements, including requirements for chain-of-custody record keeping for testing samples; and

(29) procedures for destruction of all testing samples.

#### § 975. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS

(a) The Board shall obtain from the Vermont Crime Information Center a copy of a license applicant's fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(b) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a medical cannabis dispensary license because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify a candidate.

#### § 976. DISPENSARY IDENTIFICATION CARD

(a) Every owner, principal, and employee of a medical cannabis dispensary shall obtain an identification card issued by the Board.

(b)(1) Prior to issuing the identification card, the Board shall obtain from the Vermont Crime Information Center a copy of the person's fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(2) The Board shall adopt rules that set forth standards for determining whether a person should be denied a medical cannabis dispensary identification card because his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify a candidate.

(c) Once an identification card application has been submitted, a person may serve as an employee of a dispensary pending the background check, provided the person is supervised in his or her duties by someone who is a

cardholder. The Board shall issue a temporary permit to the person for this purpose, which shall expire upon the issuance of the identification card or disqualification of the person in accordance with this section.

(d) An identification card shall expire one year after its issuance or upon the expiration of the dispensary's license, whichever occurs first.

#### § 977. FEES

(a) The Board shall charge and collect the following fees for dispensaries:

- (1) application fees;
- (2) annual license fees; and
- (3) annual renewal fees.

(b) Fees shall be deposited in the Cannabis Regulation Fund as provided in section 843 of this title.

#### Sec. 13. IMPLEMENTATION OF MEDICAL CANNABIS REGISTRIES

(a) On January 1, 2021, regulation of medical marijuana dispensaries that are registered pursuant to 18 V.S.A. chapter 86 shall transfer from the Department of Public Safety to the Cannabis Control Board. At such time, those registered dispensaries shall operate pursuant to 7 V.S.A. chapter 37 and the rules adopted by the Board pursuant to chapter 37.

(b) The registration certificate of a dispensary that transfers to the Board shall expire on the date of issue of the certificate and a dispensary that wishes to continue operating as a dispensary shall apply to the Board for a dispensary license pursuant to 7 V.S.A. chapter 37 and the rules adopted by the Board pursuant to chapter 37.

\* \* \* Creation of Excise and Local Option Tax \* \* \*

Sec. 14. 32 V.S.A. chapter 207 is added to read:

#### CHAPTER 207. CANNABIS TAXES

##### § 7901. CANNABIS EXCISE TAX

(a) There is imposed a cannabis excise tax equal to 10 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, of each retail sale in this State of cannabis and cannabis products, including food or beverages, as defined under 7 V.S.A. § 831.

(b) The tax imposed by this section shall be paid by the purchaser to the retailer. Each retailer shall collect from the purchaser the full amount of the tax payable on each taxable sale.

(c) The tax imposed by this section is separate from and in addition to the cannabis local option tax authorized under section 7902 of this title. The tax imposed by this section shall not be part of the sales price to which the cannabis local option tax applies. The cannabis excise tax shall be separately itemized from the cannabis local option tax on the receipt provided to the purchaser.

(d) 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;

(2) sales made by any dispensary as authorized under 7 V.S.A. chapter 37, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers; and

(3) sales for resale.

#### § 7902. CANNABIS LOCAL OPTION TAX

(a) Notwithstanding 24 V.S.A. § 138, any municipality may collect a cannabis local option tax not to exceed two percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale in the municipality of cannabis and cannabis products, including food and beverages, as defined under 7 V.S.A. § 831.

(b) The cannabis local option tax may be adopted by a municipality that has:

(1) not prohibited the retail sale of cannabis and cannabis products within the municipality; and

(2) provided notice of the imposition and the amount to the Department of Taxes at least 90 days prior to the first day of the tax quarter when the cannabis local option tax will be collected.

(c) The tax imposed by this section shall be paid by the purchaser to the retailer. Each retailer shall collect from the purchaser the full amount of the tax payable on each taxable sale.

(d) The tax imposed by this section is separate from and in addition to the cannabis excise tax authorized under section 7901 of this title. The tax imposed by this section shall not be part of the sales price to which the cannabis excise tax applies. The cannabis local option tax shall be separately itemized from the cannabis excise tax on the receipt provided to the purchaser.

(e) 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;

(2) sales made by any dispensary as authorized under 7 V.S.A. chapter 37, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers; and

(3) sales for resale.

(f) Any tax imposed under the authority of this section shall be collected and administered by the Department of Taxes, in accordance with State law governing such State tax or taxes, and provided to the municipality in which they were collected on a quarterly basis.

(g) As used in this section, "municipality" means a city, town, or incorporated village.

(h) Nothing in this section shall affect the validity of any existing provision of law or municipal charter authorizing a municipality to impose a local option tax on anything not subject to the cannabis local option tax.

#### § 7903. LIABILITY FOR TAXES

(a) Any tax collected in accordance with this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as clearly to indicate the amount of tax collected and that the same are the property of the State of Vermont.

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

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

proceeding brought by the retailer to collect tax and shall have the right to intervene in such action or proceeding.

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

#### § 7904. RETURNS; RECORDS

(a) Any retailer required to collect tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the total amount of sales subject to the cannabis excise tax and cannabis local option tax, if applicable, made in the preceding month, and any information required by the Department of Taxes, along with the total tax due. The Commissioner of Taxes may require that returns be submitted electronically.

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

#### § 7905. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes cannabis or a cannabis product is subject to the cannabis excise tax and cannabis local option tax, where applicable, imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the products that are nontaxable are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business, and any discounts applied to the bundle must be attributed to the products that are nontaxable under this chapter.

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

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products is or contains cannabis; or

(2) cannabis or a cannabis product that is provided free of charge with the required purchase of another product.

§ 7906. LICENSE

(a) Any retailer required to collect tax imposed by this chapter must apply for and receive a cannabis retail tax license from the Commissioner for each place of business within the State where he or she sells cannabis or cannabis products prior to commencing business. The Commissioner shall issue without charge a license, or licenses, empowering the retailer to collect the cannabis excise tax and cannabis local option tax, where applicable, provided that a retailer's application is properly submitted and the retailer is otherwise in compliance with applicable laws, rules, and provisions.

(b) Each cannabis retail tax license shall state the place of business to which it is applicable and be prominently displayed in the place of business. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant ceasing to do business in the place named. A cannabis retail tax license shall be separate and in addition to any licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title.

(c) The Cannabis Control Board may require the Commissioner of Taxes to suspend or revoke the tax licenses issued under this section for any retailer that fails to comply with 7 V.S.A. chapter 33 or any rules adopted by the Board.

§ 7907. APPLICABILITY OF SALES AND USE TAX PROVISIONS

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

§ 7908. STATUTORY PURPOSES

(a) The statutory purpose of the exemptions for cannabis and cannabis products as defined under 7 V.S.A. § 831 sold by any dispensary as authorized under 7 V.S.A. chapter 37 in subdivisions 7901(d)(2) and 7902(e)(2) of this title is to lower the cost of medical products in order to support the health and welfare of Vermont residents.

(b) The statutory purpose of the exemptions for sales for resale of cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivisions 7901(d)(3) and 7902(e)(3) of this title is to avoid double taxation.

\* \* \* Sales Tax Exemption \* \* \*

Sec. 15. 32 V.S.A. § 9701(31) is amended to read:

(31) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages, tobacco, cannabis as defined under 7 V.S.A. § 831, or soft drinks.

Sec. 16. 32 V.S.A. § 9741(53) is added to read:

(53) Cannabis and cannabis products as defined under 7 V.S.A. § 831.

\* \* \* Tax Expenditure \* \* \*

Sec. 17. 32 V.S.A. § 9706(mm) is added to read:

(mm) The statutory purpose of the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9741(53) of this title is to lower the cost of medical products sold by any dispensary as authorized under 7 V.S.A. chapter 37 in order to support the health and welfare of Vermont residents and avoid double taxation on cannabis and cannabis products that are not sold as a medical product.

\* \* \* Income Tax Deduction \* \* \*

Sec. 18. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

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

\* \* \*

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

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

\* \* \*

(ii) decreased by:

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

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

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 37, but for 26 U.S.C. § 280E.

\* \* \*

(21) “Taxable income” means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

\* \* \*

(C) Decreased by the following exemptions and deductions:

\* \* \*

(iii) an additional deduction of \$1,000.00 for each federal deduction under 26 U.S.C. § 63(f) that the taxpayer qualified for and received; and

(iv) the dollar amounts of the personal exemption allowed under subdivision (i) of this subdivision (21)(C), the standard deduction allowed under subdivision (ii) of this subdivision (21)(C), and the additional deduction allowed under subdivision (iii) of this subdivision (21)(C) shall be adjusted annually for inflation by the Commissioner of Taxes beginning with taxable year 2018 by using the Consumer Price Index and the same methodology as used for adjustments under 26 U.S.C. § 1(f)(3); provided, however, that as used in this subdivision, “consumer price index” means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor; and

(v) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 37, but for 26 U.S.C. § 280E.

\* \* \*

\* \* \* Miscellaneous Cannabis Provisions \* \* \*

Sec. 19. 18 V.S.A. § 4230a(a)(2)(A) is amended to read:

(2)(A) A person shall not consume ~~marijuana~~ cannabis in a public place. “Public place” ~~means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law~~ has the same meaning as provided by 7 V.S.A. § 831.

Sec. 20. 18 V.S.A. § 4230 is amended to read:

§ 4230. ~~MARIJUANA~~ CANNABIS

\* \* \*

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling ~~marijuana~~ cannabis or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing more than one ounce of ~~marijuana~~ cannabis or five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of ~~marijuana~~ cannabis or 2.8 ounces or more of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(4) A person 21 years of age or older may dispense one ounce or less of cannabis or five grams or less of hashish to another person who is 21 years of age or older provided that the dispensing is not advertised or promoted to the public.

\* \* \*

Sec. 21. STATUTORY REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace “marijuana” with “cannabis” throughout the statutes as needed for consistency with this act, as long as the revisions have no other effect on the meaning of the affected statutes.

\* \* \* Effective Dates \* \* \*

Sec. 22. EFFECTIVE DATES

(a) This section and Secs. 20 (cannabis dispensing) and 21 (statutory revision authority) shall take effect on passage.

(b) The following shall take effect July 1, 2019:

(1) Secs. 1 (Title 7 redesignation), 2 (cannabis chapter), 3 (implementation of the Cannabis Control Board), 4 (implementation of rulemaking by the Cannabis Control Board), 5 (Cannabis Control Board; fees), 6 (creation of Board positions), 6a (space allocation); 7 (cannabis establishments chapter), 8 (implementation of licensing of cannabis establishments), and 19 (public place definition).

(2) In Sec. 9 (Medical Cannabis Registry chapter), 7 V.S.A. § 956 (rulemaking) and in Sec. 12 (Medical Cannabis Dispensaries), 7 V.S.A. § 974 (rulemaking).

(c) Secs. 10 (implementation of Medical Cannabis Registry) and 13 (implementation of medical cannabis dispensaries) shall take effect July 1, 2020.

(d) The following shall take effect January 1, 2021:

(1) Sec. 9 (Medical Cannabis Registry chapter), except for 7 V.S.A. § 956 (rulemaking) and Sec. 12 (Medical Cannabis Dispensaries), except for 7 V.S.A. § 974 (rulemaking).

(2) Secs. 11 (Repeal), 14 (creation of excise and local option tax), 15 (sales tax exemption), 16 (tax exemption), 17 (tax expenditure), and 18 (income tax deduction).

(Committee vote: 4-1-0)

**Reported favorably with recommendation of amendment by Senator Pearson for the Committee on Finance.**

The Committee recommends that the bill be amended as recommended by the Committee on Judiciary with the following amendments thereto:

First: In Sec. 3 (implementation of the Cannabis Control Board), in subsection (b), by striking out “Commission” and inserting in lieu thereof Board and in subdivision (c)(1)(B), by striking out “Governor” and inserting in lieu thereof Treasurer

Second: In Sec. 14, 32 V.S.A. chapter 207 (cannabis taxes), after “CHAPTER 207. CANNABIS TAXES” and before “§ 7901. CANNABIS EXCISE TAX” by inserting a new section to read as follows:

§ 7900. DEFINITIONS

As used in this chapter:

(1) “Cannabis” has the same meaning as in 7 V.S.A. § 831.

(2) “Cannabis cultivator” has the same meaning as in 7 V.S.A. § 831.

(3) “Cannabis product” has the same meaning as in 7 V.S.A. § 831.

(4) “Cannabis product manufacturer” has the same meaning as in 7 V.S.A. § 831.

(5) “Cannabis retailer” has the same meaning as in 7 V.S.A. § 831.

(6) “Cannabis wholesaler” has the same meaning as in 7 V.S.A. § 831.

(7) “Retail sale” or “sold at retail” means any sale, lease, or rental for any purpose other than for resale.

(8) “Sales price” has the same meaning as in section 9701 of this title.

Third: In Sec. 14, 32 V.S.A. chapter 207, in section 7901 (cannabis excise tax), in subsection (a), by striking out “10 percent” and inserting in lieu thereof 16 percent and by striking out “, as that term is defined in subdivision 9701(4) of this title,” and “, as defined under 7 V.S.A. § 831”.

Fourth: In Sec. 14, 32 V.S.A. chapter 207, in section 2901 (cannabis excise tax), by striking out subdivision (d)(3) (sales for resale exemption), in its entirety and inserting in lieu thereof the following:

(3) sales from a cannabis cultivator, cannabis product manufacturer, or cannabis wholesaler to a cannabis product manufacturer, cannabis retailer, or cannabis wholesaler.

Fifth: In Sec. 14, 32 V.S.A. chapter 207, in section 7902 (cannabis local option tax), in subsection (a), by striking out “not to exceed” and inserting in lieu thereof of and by striking out “, as that term is defined in subdivision 9701(4) of this title,” and “, as defined under 7 V.S.A. § 831”

Sixth: In Sec. 14, 32 V.S.A. chapter 207, in section 7902 (cannabis local option tax), by striking out subdivision (e)(3) (sales for resale exemption), in its entirety and inserting in lieu thereof the following:

(3) sales from a cannabis cultivator, cannabis product manufacturer, or cannabis wholesaler to a cannabis product manufacturer, cannabis retailer, or cannabis wholesaler.

Seventh: In Sec. 14, 32 V.S.A. chapter 207, in section 7902 (cannabis local option tax), by striking out subsection (f) (administrative provision), in its entirety and inserting in lieu thereof the following:

(f) Any tax imposed under the authority of this section shall be collected and administered by the Department of Taxes, in accordance with State law governing the cannabis excise and cannabis local option taxes imposed under chapter 207 of this title, and provided to the municipality in which they were collected on a quarterly basis after reduction for the costs of administration and collection. A tax imposed under this section shall be collected using a destination basis for taxation. A per-return fee of \$5.96 shall be assessed to compensate the Department for the costs of administration and collection, which shall be paid by the municipality. The fee shall be subject to the provisions of section 605 of this title.

Eighth: In Sec. 14, 32 V.S.A. chapter 207, in section 7903 (liability for taxes), in subsection (b), by striking out “this title” and inserting in lieu thereof the provisions of section 3202 of this title

Ninth: In Sec. 14, 32 V.S.A. chapter 207, in section 7904 (returns; records), in subsection (a) by striking out “15th day” and inserting in lieu thereof 25th day and by striking out “The Commissioner of Taxes may require that returns be submitted electronically” and inserting in lieu thereof The Commissioner of Taxes may require that returns be submitted electronically and may prohibit the remittance in cash of taxes collected

Tenth: In Sec. 14, 32 V.S.A. chapter 207, in section 7905 (bundled transactions), in subsection (a), after “selling price of the bundled transaction.”, by inserting If there is a conflict with the bundling transaction provisions applicable to another tax type, this section shall apply.

Eleventh: In Sec. 14, 32 V.S.A. chapter 207, in section 7907 (applicability of sales and use tax provisions) by striking out the section in its entirety and inserting in lieu thereof the following:

§ 7907. ADMINISTRATION OF CANNABIS TAXES

(a) The Commissioner of Taxes shall administer and enforce this chapter and the tax. The Commissioner may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out such administration and enforcement.

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

Twelfth: In Sec. 14, 32 V.S.A. chapter 207, in section 7908 (statutory purposes), in subsection (a), by striking out “as defined under 7 V.S.A. § 831”

Thirteenth: In Sec. 14, 32 V.S.A. chapter 207, in section 7908 (statutory purposes), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The statutory purpose of the exemption for non-retail sales in 7901(d)(3) and 7902(e)(3) of this title is to avoid taxation when purchased cannabis or cannabis product is intended to be incorporated into a new cannabis product.

Fourteenth: In Sec. 14, 32 V.S.A. chapter 207, after section 7908, by inserting a new section to read as follows:

§ 7909. ADDITIONAL TAXES DO NOT APPLY

The cannabis excise tax and cannabis local option tax are the only taxes that apply to a retail sale of cannabis or cannabis product in this State.

Fifteenth: By adding a new section to be Sec. 14a to read:

Sec. 14a. 32 V.S.A. § 3102(d)(3) is amended to read:

(3) to any person who inquires, provided that the information is limited to whether a person is registered to collect Vermont income withholding, sales and use, ~~or meals and rooms,~~ or cannabis excise tax; whether a person is in good standing with respect to the payment of these taxes; whether a person is authorized to buy or sell property free of tax; or whether a person holds a valid license under chapter 205 or 239 of this title or 10 V.S.A. § 1942;

Sixteenth: In Sec. 15, 32 V.S.A. § 9701(31) (food and food ingredients) by striking out “cannabis” and inserting in lieu thereof cannabis and cannabis products

Seventeenth: In Sec. 17, 32 V.S.A. § 9706(mm) (sales and use tax expenditure) by striking out “double taxation on” and inserting in lieu thereof having both the sales tax and the cannabis excise and cannabis local option taxes apply to

Eighteenth: By adding a new section to be Sec. 17a and its reader assistance heading to read as follows:

\* \* \* Meals and Rooms Tax \* \* \*

Sec. 17a. 32 V.S.A. § 9202(10) is amended to read:

(10) “Taxable meal” means:

\* \* \*

(D) “Taxable meal” shall not include:

(i) Food or beverage, other than that taxable under subdivision (10)(C) of this section, that is a grocery-type item furnished for take-out: whole pies or cakes, loaves of bread; single-serving bakery items sold in quantities of three or more; delicatessen and nonprepackaged candy sales by weight or measure, except party platters; whole uncooked pizzas; pint or larger closed containers of ice cream or frozen confection; eight ounce or larger containers of salad dressings or sauces; maple syrup; quart or larger containers of cider or milk.

\* \* \*

(iii) Cannabis or cannabis products as defined under 7 V.S.A. § 831.

Nineteenth: By adding a new section to be Sec. 17b to read:

Sec. 17b. 32 V.S.A. § 9201(n) is added to read:

(n) The statutory purpose for the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9202(10)(D)(iii) of this title is to avoid having both the meals and rooms tax and the cannabis excise tax apply to edible cannabis products.

Twentieth: In Sec. 22 (effective dates), in subdivision (d)(2), after “14 (creation of excise and local option tax),” by inserting 14a (tax license disclosure), and after “17 (tax expenditure),” by inserting 17a (meals and rooms tax), 17b (meals and rooms tax expenditure),

(Committee vote: 5-2-0)

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Judiciary with the following amendments thereto:

First: In Sec. 2 (7 V.S.A. chapter 31), in § 841, by striking out subdivision (c)(1) in its entirety and inserting in lieu thereof the following:

(1) The Board shall consist of three members who shall be appointed as follows:

(A) one member to serve as chair who shall be appointed by the Governor and who shall have a background in business management or regulatory compliance;

(B) one member who shall be appointed by the Senate Committee on Committees and who shall have a background in agriculture, horticulture, or plant science; and

(C) one member who shall be appointed by the Speaker of the House and who shall have a background in systemic social justice and equity issues.

Second: In Sec. 2 (7 V.S.A. chapter 31), in § 841(c), by striking out subdivision (5) in its entirety.

Third: In Sec. 2 (7 V.S.A. chapter 31), in § 841(e), by striking out the second sentence in its entirety and inserting in lieu thereof the following:

The Chair shall receive compensation equal to two-thirds that of a Superior Court Judge and other members shall receive compensation equal to one-half that of a Superior Court Judge.

Fourth: In Sec. 2 (7 V.S.A. chapter 31), in § 841(f), in the first sentence, after “Executive Director” by inserting “who shall be an attorney with experience in legislative or regulatory matters”

Fifth: In Sec. 3 (implementation of the Cannabis Control Board), by striking out subdivision (c)(1) in its entirety and inserting in lieu thereof the following:

(c)(1) In order to stagger the terms of the members of the Board, the initial terms of those members shall be as follows:

(A) the Governor shall appoint the Chair for a three-year term;

(B) the Senate Committee on Committees shall appoint one member for a two-year term; and

(D) the Speaker of the House shall appoint one member for a two-year term.

Sixth: In Sec. 5 (Cannabis Control Board; fees; report), in subsection (a), after the last sentence, by adding the following:

The fees submitted in accordance with this subsection (a) are projected, at a minimum, to equal the cost of application and license fees for marijuana establishments in the Commonwealth of Massachusetts that are collected by the Cannabis Control Commission. The Board may recommend fees that are lower or higher provided they are designed to provide sufficient funding to meet the duties of the Cannabis Control Board as provided in 7 V.S.A. § 841(b).

Seventh: In Sec. 5 (Cannabis Control Board; fees; report), in subsection (b), by adding a new subdivision (4) to read as follows:

(4) Whether monies expected to be generated by fees identified in subsection (a) of this section are sufficient to support the statutory duties of the Board and whether any portion of the tax established pursuant to 32 V.S.A. § 7901 should be allocated to the Cannabis Regulation Fund to ensure these duties are met.

Eighth: In Sec. 6 (Cannabis Control Board; positions), in subdivision (1), by striking out “Five” and inserting in lieu thereof Three

Ninth: By adding four new sections to be Secs. 6b – d to read as follows:

Sec. 6b. APPROPRIATION

In fiscal year 2020, \$810,000.00 is appropriated from the Cannabis Regulation Fund to the Cannabis Control Board. This appropriation is made in anticipation of receipts in the fund.

Sec. 6c. CONTINGENT CANNABIS REGULATION FUND DEFICIT  
OFFSET

To the extent that the Cannabis Regulation Fund has a negative balance at the close of the fiscal year 2022, proceeds in that amount from the tax established 32 V.S.A. § 7901 in fiscal year 2023 shall be deposited into the Cannabis Regulation Fund.

Sec. 6d. AUDITOR OF ACCOUNTS REPORT

On or before April 1, 2023, the Auditor of Accounts shall report to the General Assembly regarding the organizational structure and membership of the Cannabis Control Board and whether the structure continues to be the most efficient for carrying out the statutory duties of the Board.

Tenth: In Sec. 22 (effective dates), in subdivision (b)(1), after “6a (space allocation);” by adding 6b (appropriation); and by adding a new subsection (e) to read as follows:

(e) Secs. 6c and 6d shall take effect on July 1, 2021.

(Committee vote: 7-0-0)

**S. 86.**

An act relating to increasing the legal age for buying and using cigarettes, electronic cigarettes, and other tobacco products from 18 to 21 years of age.

**Reported favorably with recommendation of amendment by Senator Ingram for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended in Sec. 7, 7 V.S.A. § 661(c), following “tobacco products”, by inserting , tobacco substitutes, or tobacco paraphernalia

(Committee vote: 5-0-0)

**Reported favorably by Senator Campion for the Committee on Finance.**

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare and that when so amended, ought to pass.

(Committee vote: 6-0-1)

## CONFIRMATIONS

The following appointment will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Michael P. Touchette of Colchester – Commissioner, Department of Corrections – By Senator Benning for the Committee on Institutions. (2/28/19)

## PUBLIC HEARINGS

**Wednesday, February 27, 2019 – Room 11- 7:00 P.M.** - Joint Committee on Judicial Retention - Re: Judicial Retention of Superior Court Judges and Magistrate: Judges William Cohen, Robert Gerety, Jr., Kevin Griffin, Samuel Hoar, Elizabeth Mann, Megan Shafritz, Timothy Tomasi and Thomas Zonay and Magistrate Alicia Humbert.

## FOR INFORMATION ONLY

### CROSSOVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2)) on or before **Friday, March 15, 2019**, and filed with the Secretary/Clerk so that they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 22, 2019**, and filed with the Secretary/Clerk so that they may be placed on the Calendar for Notice the next legislative day.

**Note:** The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.