



## Rural Vermont S.54 Testimony: Cannabis Taxation & Regulation

*Updated January 2020*

Rural Vermont thanks the legislature for their goal of providing equitable economic opportunity for Vermont farmers and small businesses as they consider this legislation. The changes outlined would further acknowledge and honor Vermont's working lands and small business communities by giving diversified small-farms and homesteads the chance to expand into this emerging market in an accessible and viable way. We feel crucial decisions are unnecessarily left to the unelected Cannabis Control Board (CCB)<sup>1</sup> - and express concern that S.54 has not been considered by or commented on by an Agricultural Committee when the cultivation of cannabis is fundamentally an agricultural activity. We encourage legislators to seek further testimony to gain differentiated understanding of the implications of S.54 for outdoor cultivation of cannabis as opposed to indoor cultivation. Rural Vermont sees a need for such undertaking with the goal for S.54 to create equitable market access for outdoor growers which is essential for unfolding the economic potential of this promise to Vermont farmers.

The following comments refer to the bill as passed by the Senate. Provisions that were subject to changes made by the House (as of Draft No. 8.3) are marked with a footnote.

1) **Clear and Equitable Facilities Requirements: “enclosed, locked facility”, “locked or other security devices”, “not visible to the public”**

The requirement in §904 (b) is unacceptably vague and impractical with respect to its implications for farmers and outdoor growers. We understand the definition in §861(15)<sup>2</sup> as being satisfied by semi-permanent fencing (electric or other) providing a “fully enclosed fenced-in area”. The requirement of a permanent, locked perimeter makes the established Best Practice of crop rotation almost impossible. We encourage legislators to allow the security of outdoor cultivation locations to be at the discretion of the cultivator without referring to the rulemaking process of the CCB, as indicated in §881(a)(1)(G).

2) **Market Access Equity:** restrictions and/or limitations of number of visitors to farms, direct market opportunities for small-scale producers, advertising, etc. confine the economic growth potential of farms and limits direct engagement with consumers and the public which small growers rely upon for business viability. RV opposes §§ 881 2(A)(vi), 974 (b) (24),<sup>3</sup> which enables the CCB to limit the number of visitors a cultivator may allow at any one time. This restricts the economic growth potential of farms that include cannabis cultivation by limiting the number of attendees at educational workshops, tours, and other events promoting the crop, particular practices, or the farm. Income from educational opportunities and events plays an important role in farm viability, and this limitation unnecessarily diminishes economic opportunities for Vermont farmers. Rural Vermont suggests encouraging the cannabis market by:

- **Allowing direct sales** on-farm, in CSA's, and eventually at farmers' markets. § 907 (e) prohibits the delivery of cannabis to customers and §901(d)(3) prevents on-farm sales since cultivators' licenses

<sup>1</sup> And its prospective advisory committee, see House Draft No. 8.3, p. 7, ln. 1.

<sup>2</sup> §861(18) in House Draft No. 8.3, p. 22, ln. 5.

<sup>3</sup> §974 (b) (24) was in Section 12 of the bill which was deleted in House Draft No. 8.3, see p. 54, ln. 6.

cannot be issued for the same place as a retail license. Locating production, processing, and retail at the same site for particular scales of operation will be critical in achieving equitable opportunity for small scale producers and businesses who cannot compete with the economies of scale and available resources of large businesses and farms. We suggest striking sentence 2 from § 901 (d)(3) or creating a community scale retail license for the smallest tier cultivator to obtain in order for them to engage in direct sales and be competitive in the market.

- 3) The **timeline for license applications** gives competitive advantage to indoor cultivators and is not appropriate for phasing in licensure. Rural Vermont suggests that the CCB accept license applications and issue licenses on an ongoing basis and without restriction for the smallest tier of cultivation license.
- 4) **Privileges to medical dispensaries** Medical Dispensaries are currently for-profit companies in VT, and given an unfair competitive advantage when they are not required to operate under a regulatory framework which positions them equitably with other for-profit ventures in this industry. Furthermore, they have already demonstrated an inability to adequately regulate themselves. To create fairness for the new market, Rural Vermont asks the legislature to strike from S.54:
  - The ability to operate as both retail and medical establishments;
  - The ability to vertically integrate under one license;
  - The ability to test themselves and not undergo 3rd party testing;
  - The cost of dispensary product testing being paid with tax dollars by the Department of Public Safety.<sup>4</sup>
- 5) S. 54 does not adequately facilitate **criminal justice reform**  
Rural Vermont sees S.54 as a policy further articulating and codifying cannabis legalization and decriminalization. The bill should therefore encompass criminal justice reform and reparations. **All incarceration** sentencing in §4230(b) should be removed. Additionally, criminal justice reform for Rural Vermont means:
  - Removing criminal background checks in §§ 884(b)(1), 975 (a).<sup>5</sup> With the legalization of Cannabis, we question the purpose and legality behind background checks, and the potential impact on small business viability. To at least gain consistency with §902(c), which requires background checks only for managers, we suggest striking the word “employee” from §884(a).
  - Devoting a portion of the 16% excise tax (§7901(a)) on cannabis sales towards **just reparations and criminal justice reforms** in perpetuity.
  - **immediately releasing** anyone imprisoned from non-violent cannabis-related crimes.

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4 As added in House Draft No. 8.3, see p. 86, n.1.

5 §975 (a) was in Section 12 of the bill which was deleted in House Draft No. 8.3, see p. 54, ln. 6.