

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Government Operations to which was referred Senate
3 Bill No. 54 entitled “An act relating to the regulation of cannabis” respectfully
4 reports that it has considered the same and recommends that the House propose
5 to the Senate that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 * * * Title Redesignation * * *

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

9 7. ALCOHOLIC BEVERAGES, CANNABIS, AND TOBACCO

10 * * * Cannabis Generally; Cannabis Control Board * * *

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

12 CHAPTER 31. CANNABIS

13 Subchapter 1. General Provisions

14 § 831. DEFINITIONS

15 As used in this chapter:

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

17 (2)(A) “Cannabis” means all parts of the plant Cannabis sativa L.,

18 except as provided by subdivision (B) of this subdivision (2), whether growing

19 or harvested, and includes:

20 (i) the seeds of the plant;

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

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

3 (B) “Cannabis” does not include:

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

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

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

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

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

12 (3) “Cannabis product” means concentrated cannabis and a product that
13 is composed of cannabis and other ingredients and is intended for use or
14 consumption, including an edible product, ointment, and tincture. Cannabis
15 product shall include a vaporizer cartridge containing cannabis oil that is
16 intended for use with a battery-powered device.

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

18 (5) “Criminal history record” shall have the same meaning as in
19 20 V.S.A. § 2056a(a).

20 (6) “Public place” means any street, alley, park, sidewalk, public
21 building other than individual dwellings, any place of public accommodation

1 as defined in 9 V.S.A. § 4501, and any place where the use or possession of a
2 lighted tobacco product, tobacco product, or tobacco substitute is prohibited by
3 law pursuant to 18 VSA chapter 37.

4 § 832. CANNABIS POSSESSED UNLAWFULLY SUBJECT TO
5 SEIZURE AND FORFEITURE

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

8 § 833. CONSUMPTION OF CANNABIS IN A PUBLIC PLACE

9 No person shall consume cannabis in a public place unless specifically
10 authorized by law. Violations shall be punished in accordance with 18 V.S.A.
11 § 4230a.

12 Subchapter 2. Cannabis Control Board

13 § 841. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

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

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

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

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

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

4 (c) Membership.

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

7 (A) one member to serve as chair who shall be appointed by the
8 Governor;

9 (B) one member who shall be appointed by the Senate Committee on
10 Committees;

11 (C) one member who shall be appointed by the Speaker of the House;

12 (D) one member who shall be appointed by the Treasurer; and

13 (E) one member who shall be appointed by the Attorney General.

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

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

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

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

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

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

18 (4) No Board member may appear before the Board or any other State
19 agency on behalf of a person subject to supervision or regulation by the Board
20 for a period of one year following his or her last day as a member of the
21 Cannabis Control Board.

1 (e) Salaries. The Chair and all members of the Board shall be full-time
2 State employees and shall be exempt from the State classified system. The
3 Chair shall receive compensation equal to two-thirds that of a Superior Court
4 Judge and other members shall receive compensation equal to one-half that of
5 a Superior Court Judge.

6 (f) Executive Director. The Board shall appoint an Executive Director who
7 shall be an attorney with experience in legislative or regulatory matters. The
8 Director shall be a full-time State employee, shall be exempt from the State
9 classified system, and shall serve at the pleasure of the Board. The Director
10 shall be responsible for:

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

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

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

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

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

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

1 (h) Advisory committee.

2 (1) There is an advisory committee established within the Board that
3 shall be comprised of members with expertise and knowledge relevant to the
4 Board’s mission. The advisory committee shall include, at a minimum:

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

7 (B) one member with an expertise in agriculture, horticulture, or
8 plant science appointed by the Governor;

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

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

13 (E) one member with an expertise in women and minority-owned
14 business ownership appointed by the Speaker of the House;

15 (F) one member with an expertise in substance misuse prevention
16 appointed by the Senate Committee on Committees;

17 (G) one member with an expertise in the cannabis industry appointed
18 by the Senate Committee on Committees;

19 (H) one member with an expertise in business management or
20 regulatory compliance appointed by the Treasurer;

1 (I) one member with an expertise in municipal issues appointed by
2 the Treasurer;

3 (J) one member with an expertise in public safety appointed by the
4 Attorney General; and

5 (K) one member with an expertise in criminal justice reform
6 appointed by the Attorney General.

7 (2) Initial appointments to the advisory committee as provided in
8 subdivision (1) of this subsection (h) shall be made on or before December 1,
9 2019.

10 (3) The Board may appoint members to the advisory committee in
11 addition to those identified in subdivision (1) of this subsection (h) and this
12 subsection shall not be construed to limit the Board in any way regarding
13 whom it may consult with in an effort to execute its duties.

14 (4) The Board may establish subcommittees within the advisory
15 committee to accomplish its work.

16 § 842. AUTHORITY FOR CRIMINAL BACKGROUND CHECKS

17 The Board shall establish a user agreement with the Vermont Crime
18 Information Center in accordance with 20 V.S.A. chapter 117 for the purpose
19 of obtaining Vermont criminal history records, out-of-state criminal history
20 records, and criminal history records from the Federal Bureau of Investigation
21 as required by chapter 33 of this title.

1 § 843. CANNABIS REGULATION FUND

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

5 (b) The Fund shall be composed of all application fees, annual license fees,
6 renewal fees, advertising review fees, and civil penalties collected by the
7 Board pursuant to chapter 33 of this title.

8 (c) Monies from the fund shall only be appropriated for the purposes of
9 implementation, administration, and enforcement of this chapter and chapter
10 33 of this title.

11 § 844. FEES

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

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

15 § 845. APPEALS

16 (a)(1) A party aggrieved by a final decision of the Board may, within 30
17 days of the decision, appeal that decision by filing a notice of appeal with the
18 Executive Director who shall assign the case to an appellate officer.

19 (2)(A) The review shall be conducted on the basis of the record created
20 before the Board.

1 (B) In cases of alleged irregularities in procedure before the Board,
2 not shown in the record, proof on that issue may be taken by the appellate
3 officer.

4 (b) The appellate officer shall not substitute his or her judgment for that of
5 the Board as to the weight of the evidence on questions of fact. The appellate
6 officer may affirm the decision, or may reverse and remand the matter with
7 recommendations if substantial rights of the appellant have been prejudiced
8 because the Board’s finding, inferences, conclusions, or decisions are:

9 (1) in violation of constitutional or statutory provisions;

10 (2) in excess of the statutory authority of the Board;

11 (3) made upon unlawful procedure;

12 (4) affected by other error of law;

13 (5) clearly erroneous in view of the evidence on the record as a whole;

14 (6) arbitrary or capricious; or

15 (7) characterized by abuse of discretion or clearly unwarranted exercise
16 of discretion.

17 (c) A party aggrieved by a decision of the appellate officer may appeal to
18 the Supreme Court, which shall review the matter on the basis of the records
19 created before the Board.

20 (d) The Board shall have the authority to contract for the services of an
21 appellate officer.

1 Sec. 3. IMPLEMENTATION OF THE CANNABIS CONTROL BOARD

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

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

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

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

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

11 (C) the Speaker of the House shall appoint one member for a two-
12 year term;

13 (D) the Treasurer shall appoint one member for a one-year term; and

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

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

1 Sec. 4. IMPLEMENTATION OF RULEMAKING BY THE CANNABIS
2 CONTROL BOARD

3 On or before March 1, 2020 the Cannabis Control Board shall initiate
4 rulemaking for cannabis establishments pursuant to chapter 33 of this title as
5 provided in Sec. 7 of this act.

6 Sec. 5. CANNABIS CONTROL BOARD REPORT TO THE GENERAL
7 ASSEMBLY; PROPOSAL FOR POSITIONS, FEES, AND
8 APPROPRIATIONS FOR FISCAL YEARS 2021 AND 2022; LAND
9 USE, ENVIRONMENTAL, ENERGY, AND EFFICIENCY
10 REQUIREMENTS OR STANDARDS; OUTREACH, TRAINING,
11 AND EMPLOYMENT PROGRAMS; ONLINE ORDERING AND
12 DELIVERY; ADDITIONAL TYPES OF LICENSES

13 (a) On or before January 15, 2020, the Executive Director of the Cannabis
14 Control Board shall provide recommendations to the General Assembly on the
15 following:

16 (1) Resources necessary for implementation of this act for fiscal years
17 2021 and 2022, including positions and funding. The Board shall consider
18 utilization of current expertise and resources within State government and
19 cooperation with other State departments and agencies where there may be an
20 overlap in duties.

1 (2) Fees to be charged and collected in accordance with the Board’s
2 authority pursuant to 7 V.S.A. § 844. The recommendations shall be
3 accompanied by information justifying the recommended rate as required by
4 32 V.S.A. § 605(d). The fees submitted in accordance with this subdivision
5 are projected, at a minimum, to equal the cost of application and license fees
6 for marijuana establishments in the Commonwealth of Massachusetts that are
7 collected by the Cannabis Control Commission. The Board may recommend
8 fees that are lower or higher provided they are designed to provide sufficient
9 funding to meet the duties of the Cannabis Control Board as provided in 7
10 V.S.A. § 841(b).

11 (A) Application fees, initial annual license fees, and annual license
12 renewal fees for each type of cannabis establishment license as provided in
13 7 V.S.A. § 910: cultivator, product manufacturer, wholesaler, retailer, testing
14 laboratory, and integrated. If the Board establishes tiers within a licensing
15 category, it shall provide a fee recommendation for each tier.

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

18 (C) Fee for advertisement review for a cannabis establishment
19 licensee as provided in 7 V.S.A. § 865.

20 (3) Whether monies expected to be generated by fees identified in
21 subdivision (2) of this subsection are sufficient to support the statutory duties

1 of the Board and whether any portion of the tax established pursuant to 32
2 V.S.A. § 7901 should be allocated to the Cannabis Regulation Fund to ensure
3 these duties are met.

4 (4) Whether monies collected pursuant to a local option tax should be
5 shared with municipalities that host a cannabis establishment that is not a
6 licensed retailer or integrated licensee and, if so, a recommended formula for
7 sharing the revenue.

8 (b) On or before January 15, 2020, the Executive Director of the Cannabis
9 Control Board, after consultation with the Secretary of Natural Resource, the
10 Chair of the Natural Resources Board, and the Secretary of Agriculture, Food
11 and Markets, shall recommend to the General Assembly land use or
12 environmental regulatory requirements or standards applicable to cannabis
13 establishments. The Executive Director may provide the recommendations
14 based on the tier or category of cannabis establishment. The recommendations
15 shall address:

16 (1) the State and local land use requirements for cannabis
17 establishments, including if and how cannabis establishments shall be
18 regulated under 10 V.S.A. chapter 151;

19 (2) whether certain cannabis establishments should be regulated by the
20 Secretary of Agriculture as farming;

1 (3) the water quality requirements for cannabis establishments,
2 including whether cannabis establishment shall be required to obtain, where
3 applicable, direct discharge permits, indirect discharge permits, stormwater
4 permits, groundwater withdrawal permits, or other relevant water quality
5 permits;

6 (4) the solid waste and hazardous waste handling requirements for
7 cannabis establishments, including any requirements for the management or
8 reporting of the use of toxic substances; and

9 (5) any additional permitting or licensing recommendations.

10 (c) On or before January 15, 2020, the Executive Director of the Cannabis
11 Control Board, after consultation with the Commissioner of Public Service and
12 the Chair of the Public Utility Commission, shall recommend to the General
13 Assembly energy or efficiency requirements or standards for the operation of
14 cannabis establishments in the State. The recommendations shall include:

15 (1) recommended building energy standards for cannabis establishment
16 if different from existing commercial building standards;

17 (2) recommended energy audits for cannabis establishments, including
18 the recommended frequency of audits and who should perform the audits; and

19 (3) energy efficiency and conservation measures applicable to cannabis
20 establishments.

1 (d) In making the recommendations required under subsections (b) and (c)
2 of this section, the Executive Director of the Cannabis Control Board, shall
3 recommend the permits, licenses, or standards that a licensed cannabis
4 cultivator or cannabis product manufacturer shall demonstrate, as a condition
5 of licensure, or as a condition for licensure renewal if such standards are not
6 established prior to initial licensure.

7 (e) On or before March 1, 2020, the Executive Director of the Cannabis
8 Control Board shall submit to the General Assembly the Board’s
9 recommendation whether licensed cannabis product manufacturers should be
10 considered a food manufacturing establishment or food processor pursuant to
11 18 V.S.A. § 4301(7) for the purpose of licensing and regulation by the
12 Department of Health.

13 (f) On or before November 15, 2020, the Executive Director of the
14 Cannabis Control Board shall submit to the General Assembly:

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

20 (2) regarding the experience of other jurisdictions with regulated
21 cannabis markets that allow licensed retail cannabis establishments to accept

1 online ordering for in-store pick-up of items and to deliver to customers and
2 the advantages and disadvantages of allowing such services in Vermont; and

3 (3) recommendations as to whether the General Assembly should
4 consider adding additional types of cannabis licenses including a craft
5 cooperative license, delivery license, or special event license.

6 (4) recommendations as to whether cannabis and cannabis products
7 should have a minimum amount of cannabidiol to aid in the prevention of the
8 cannabis-induced psychosis that occurs in some users of cannabis and cannabis
9 products.

10 Sec. 6. CANNABIS CONTROL BOARD; POSITIONS

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

13 (1) five full-time, exempt members of the Board;

14 (2) one full-time, exempt Executive Director of the Board; and

15 (3) one full-time, classified Administrative Assistant.

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

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

20 Sec. 6b. APPROPRIATION

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

4 Sec. 6c. CONTINGENT CANNABIS REGULATION FUND DEFICIT
5 OFFSET

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

10 Sec. 6d. AUDITOR OF ACCOUNTS REPORT

11 On or before November 15, 2023, the Auditor of Accounts shall report to
12 the General Assembly regarding the organizational structure and membership
13 of the Cannabis Control Board and whether the structure continues to be the
14 most efficient for carrying out the statutory duties of the Board.

15 * * * Cannabis Establishments * * *

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

17 CHAPTER 33. CANNABIS ESTABLISHMENTS

18 Subchapter 1. General Provisions

19 § 861. DEFINITIONS

20 As used in this chapter:

1 (1) “Advertise” means the publication or dissemination of an
2 advertisement.

3 (2) “Advertisement” means any written or verbal statement, illustration,
4 or depiction that is calculated to induce sales of cannabis or cannabis products,
5 including any written, printed, graphic, or other material, billboard, sign, or
6 other outdoor display, other periodical literature, publication, or in a radio or
7 television broadcast, the Internet, or in any other media. The term does not
8 include:

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

12 (B) any editorial or other reading material, such as a news release, in
13 any periodical or publication or newspaper for the publication of which no
14 money or valuable consideration is paid or promised, directly or indirectly, by
15 any cannabis establishment, and which is not written by or at the direction of
16 the licensee;

17 (C) any educational, instructional, or otherwise noncommercial
18 material that is not intended to induce sales and that does not propose an
19 economic transaction, but which merely provides information to the public in
20 an unbiased manner; or

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

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

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

8 (5) “Board” means the Cannabis Control Board.

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

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

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

16 (9) “Cannabis product” shall have the same meaning as provided in
17 section 831 of this title.

18 (10) “Cannabis product manufacturer” or “product manufacturer” means
19 a person licensed by the Board to manufacture cannabis products in accordance
20 with this chapter.

1 (11) “Cannabis retailer” or “retailer” means a person licensed by the
2 Board to sell cannabis and cannabis products to adults 21 years of age and
3 older for off-site consumption in accordance with this chapter.

4 (12) “Cannabis testing laboratory” or “testing laboratory” means a
5 person licensed by the Board to test cannabis and cannabis products in
6 accordance with this chapter.

7 (13) “Cannabis wholesaler” or “wholesaler” means a person licensed by
8 the Board to purchase, process, transport, and sell cannabis and cannabis
9 products in accordance with this chapter.

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

11 (15) "Child-resistant packaging" means packaging that is designed or
12 constructed to be significantly difficult for children under five years of age to
13 open or obtain a toxic or harmful amount of the substance in the container
14 within a reasonable time and not difficult for normal adults to use properly, but
15 does not mean packaging that all children under five years of age cannot open
16 or obtain a toxic or harmful amount of the substance in the container within a
17 reasonable time.

18 (16) “Controls,” “is controlled by,” and “under common control” mean
19 the power to direct, or cause the direction or management and policies of a
20 person, whether through the direct or beneficial ownership of voting securities,
21 by contract, or otherwise. A person who directly or beneficially owns

1 10 percent or more equity interest, or the equivalent thereof, of another person
2 shall be deemed to control the person.

3 (17) “Dispensary” means a business organization licensed pursuant to
4 18 V.S.A. chapter 86.

5 (18) “Enclosed, locked facility” means a building, room, greenhouse,
6 outdoor fenced-in area, or other location that is enclosed on all sides and
7 prevents cannabis from easily being viewed by the public. The facility shall be
8 equipped with locks or other security devices that permit access only by:

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

11 (B) Government employees performing their official duties.

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

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

1 (19) “Integrated licensee” means a person licensed by the Board to
2 engage in the activities of a cultivator, wholesaler, product manufacturer,
3 retailer, and testing laboratory in accordance with this chapter.

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

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

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

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

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

3 This chapter applies to the regulation of cannabis establishments by the
4 Board and shall not apply to activities regulated by 6 V.S.A. chapter 34 (hemp)
5 or 18 V.S.A. chapter 86 (therapeutic use of cannabis).

6 § 863. REGULATION BY LOCAL GOVERNMENT

7 (a)(1) Prior to a cannabis retailer operating within a municipality, the
8 municipality shall affirmatively permit the operation of such retailers by
9 majority vote of those present and voting by Australian ballot at an annual or
10 special meeting warned for that purpose.

11 (2) A vote to permit the operation of a licensed cannabis retailer within
12 the municipality shall remain in effect until rescinded by majority vote of those
13 present and voting by Australian ballot at a subsequent annual or special
14 meeting warned for that purpose. A rescission of the permission to operate a
15 licensed cannabis retailer within the municipality under this subdivision shall
16 not apply to a licensed cannabis retailer that is operating within the
17 municipality at the time of the vote.

18 (b) A municipality that hosts a cannabis establishment may establish a
19 cannabis control commission composed of commissioners who may be
20 members of the municipal legislative body. The local cannabis control
21 commission may issue and administer local control licenses under this

1 subsection for cannabis establishments within the municipality. The
2 commissioners may condition the issuance of a local control license upon
3 compliance with any bylaw adopted pursuant to 24 V.S.A. § 4414 or
4 ordinances regulating signs or public nuisances adopted pursuant to 24 V.S.A.
5 § 2291. The commission may suspend or revoke a local control license for a
6 violation of any condition placed upon the license. The Board shall adopt rules
7 relating to a municipality’s issuance of a local control license in accordance
8 with this subsection and the local commissioners shall administer the rules
9 furnished to them by the Board as necessary to carry out the purposes of this
10 section.

11 (c) Prior to issuing a license to a cannabis establishment under this chapter,
12 the Board shall ensure that the applicant has obtained a local control license
13 from the municipality, if required.

14 (d) A municipality shall not:

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

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

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

3 § 864. ADVERTISING

4 (a) “Advertise” and “advertisement” have the same meaning as in section
5 831 of this title.

6 (b) A cannabis establishment advertisement shall not contain any statement
7 or illustration that:

8 (1) is deceptive, false or misleading;

9 (2) promotes overconsumption;

10 (3) represents that the use of cannabis has curative effects;

11 (4) offers a prize, award, or inducement for purchasing cannabis or a
12 cannabis product, except that price discounts are allowed;

13 (5) offers free samples of cannabis or cannabis products;

14 (6) depicts a person under 21 years of age consuming cannabis or
15 cannabis products; or

16 (7) is designed to be or has the effect of being particularly appealing to
17 persons under 21 years of age.

18 (c) Cannabis establishments shall not advertise their products via any
19 medium unless the licensee can show that not more than 15 percent of the
20 audience is reasonably expected to be under 21 years of age.

1 (d) All advertisements shall contain the following warnings:

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

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

6 (3) Cannabis should not be used by women who are pregnant or
7 breastfeeding.

8 (4) Use of cannabis may cause dependence in some individuals.

9 (e) All advertisements shall be submitted to the Board on a form or in a
10 format prescribed by the Board, prior to the dissemination of the
11 advertisement. The Board shall:

12 (1) require a specific disclosure be made in the advertisement in a clear
13 and conspicuous manner if the Board determines that the advertisement would
14 be false or misleading without such a disclosure; or

15 (2) make recommendations with respect to changes that are necessary to
16 protect the public health, safety, and welfare or consistent with dispensing
17 information for the product under review.

18 (f) The Board may charge and collect fees for review of advertisements.

19 § 865. EDUCATION

20 (a) A licensee shall complete an enforcement seminar every three years
21 conducted by the Board. A license shall not be renewed unless the records of

1 the Board show that the licensee has complied with the terms of this
2 subsection.

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

13 § 866. YOUTH

14 (a) A cannabis establishment licensed pursuant to this chapter shall not
15 dispense or sell cannabis to a person under 21 years of age or employ a person
16 under 21 years of age. The Board may assess civil penalties against or suspend
17 or revoke the license of a cannabis establishment that dispenses or sells
18 cannabis or cannabis products to a person under 21 years of age.

19 (b) A cannabis establishment shall not permit a person under 21 years of
20 age to enter a building or enclosure on the premises where cannabis is located.
21 This subsection shall not apply to a registered patient visiting a dispensary

1 even if that dispensary is located in a building that is located on the same
2 premises of a cannabis establishment.

3 (c) In accordance with section 864 of this title, advertising by a cannabis
4 establishment shall not depict a person under 21 years of age consuming
5 cannabis or cannabis products or be designed to be or has the effect of being
6 particularly appealing to persons under 21 years of age. Cannabis
7 establishments shall not advertise their products via any medium unless the
8 licensee can show that not more than 15 percent of the audience is reasonably
9 expected to be under 21 years of age. All advertising shall contain a warning
10 that cannabis and cannabis products are for use only by adults 21 years of age
11 or older and shall be kept out of the reach of children.

12 (d) The Board shall adopt rules in accordance with section 881 of this title
13 to:

14 (1) prohibit cannabis products or the packaging of such products that are
15 designed to make the product more appealing to persons under 21 years of age;

16 (2) prohibit the packaging of cannabis that is designed to make the
17 product more appealing to persons under 21 years of age;

18 (3) require that cannabis products sold by licensed retailers and
19 integrated licensees are contained in child-resistant packaging; and

20 (4) require that cannabis and cannabis products sold by licensed retailers
21 and integrated licensees are packaged with labels that clearly indicate that the

1 contents of the package contains cannabis and should be kept away from
2 persons under 21 years of age.

3 § 867. STANDARD SYMBOL FOR CANNABIS

4 The Board shall create a standard symbol that shall be used on all
5 cannabis and cannabis products sold by a licensed cannabis retailer to indicate
6 that the contents of a package contains cannabis.

7 § 868. PROHIBITED PRODUCTS

8 (a) The following are prohibited products and may not be cultivated,
9 produced or sold pursuant to a license issued under this chapter:

10 (1) cannabis flower with greater than 30 percent tetrahydrocannabinol;

11 (2) solid concentrate cannabis products with greater than 60 percent
12 tetrahydrocannabinol;

13 (3) oil cannabis products except for those that are sold prepackaged for
14 use with battery-powered devices; and

15 (4) cannabis products that contain delta-9 tetrahydrocannabinol and
16 nicotine or alcoholic beverages.

17 Subchapter 2. Administration

18 § 881. RULEMAKING; CANNABIS ESTABLISHMENTS

19 (a) The Board shall adopt rules to implement and administer this chapter in
20 accordance with subdivisions (1)–(7) of this subsection.

21 (1) Rules concerning any cannabis establishment shall include:

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

2 (B) qualifications for licensure that are directly and demonstrably

3 related to the operation of a cannabis establishment, including:

4 (i) a requirement to submit an operating plan, which shall include
5 information concerning:

6 (I) the type of business organization; the identity of its
7 controlling owners and principals; and the identity of the controlling owners
8 and principals of its affiliates; and

9 (II) the sources, amount, and nature of its capital, assets, and
10 financing; the identity of its financiers; and the identity of the controlling
11 owners and principals of its financiers;

12 (ii) a requirement to file an amendment to its operating plan in the
13 event of a significant change in organization, operation, or financing; and

14 (iii) the requirement for a fingerprint-based criminal history record
15 check and regulatory record check pursuant to section 883 of this title;

16 (C) oversight requirements, including provisions to ensure that a
17 licensed establishment complies with State and federal regulatory requirements
18 governing insurance, securities, workers' compensation, unemployment
19 insurance, and occupational health and safety;

20 (D) inspection requirements;

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

3 (F) employment and training requirements;

4 (G) security requirements, including any appropriate lighting,
5 physical security, video, and alarm requirements;

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

7 (I) health and safety requirements;

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

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

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

14 (M) sanitary requirements;

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

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

19 (P) requirements for banking and financial transactions, including
20 provisions to ensure that the Board, the Department of Financial Regulation,
21 and financial institutions have access to relevant information concerning

1 licensed establishments to comply with State and federal regulatory
2 requirements;

3 (Q) disclosure or eligibility requirements for a financier, its owners
4 and principals, and its affiliates, which may include:

5 (i) requirements to disclose information to a licensed
6 establishment, the Board, or the Department of Financial Regulation;

7 (ii) a minimum age requirement and a requirement to conduct a
8 background check for natural persons;

9 (iii) requirements to ensure that a financier complies with
10 applicable State and federal laws governing financial institutions, licensed
11 lenders, and other financial service providers; and

12 (iv) any other requirements, conditions, or limitations on the type
13 or amount of loans or capital investments made by a financier or its affiliates,
14 which the Board, in consultation with the Department of Financial Regulation,
15 determines is necessary to protect the public health, safety, and general
16 welfare; and

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

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

1 (i) creation of a tiered system of licensing based on the plant
2 canopy size of the cultivation operation or plant count for breeding stock;

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

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

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

9 (v) labeling requirements for products sold to retailers that include
10 appropriate warnings concerning the potential risks of consuming cannabis, the
11 need to keep the product away from persons under 21 years of age, that
12 cannabis should not be used by women who are pregnant or breastfeeding, and
13 that use of cannabis may cause dependence in some individuals;

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

17 (vii) facility inspection requirements and procedures.

18 (B) The Board shall consider the different needs and risks of small
19 cultivators when adopting rules and shall make an exception or
20 accommodation to such rules for cultivators of this size where appropriate.

21 (3) Rules concerning product manufacturers shall include:

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

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

5 (ii) cannabis products sold to a dispensary pursuant to 18 V.S.A.
6 chapter 86 and regulations issued pursuant to that chapter;

7 (B) requirements that cannabis products are labeled in a manner that
8 states the number of servings of tetrahydrocannabinol in the product, measured
9 in servings of a maximum of 5 milligrams per serving, except:

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

12 (ii) cannabis products sold to a dispensary pursuant to 18 V.S.A.
13 chapter 86 and regulations issued pursuant to that chapter;

14 (C) requirements that cannabis products are labeled with a date the
15 product was manufactured, the date the product is best used by, and the
16 ingredients contained in the product;

17 (D) requirements that cannabis products are labeled with
18 information on the length of time it typically takes for products to take effect
19 and appropriate warnings concerning the potential risks of consuming
20 cannabis, the need to keep the product away from persons under 21 years of
21 age, and that cannabis should not be used by women who are pregnant or

1 breastfeeding, and that use of cannabis may cause dependence in some
2 individuals;

3 (E) requirements that a cannabis product is clearly identifiable with a
4 standard symbol adopted by the Board indicating that it contains cannabis;

5 (F) procedures and standards for testing cannabis products for
6 contaminants, potency, and quality assurance and control;

7 (G) requirements for opaque, child-resistant packaging; and

8 (H) a prohibition on:

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

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

13 (4) Rules concerning wholesalers shall include any provisions the Board
14 has not addressed in subdivision (a)(1) of this section that are appropriate for
15 safe regulation of wholesalers in accordance with this chapter.

16 (5) Rules concerning retailers shall include:

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

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

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

4 (D) requirements for opaque, child-resistant packaging of cannabis
5 and cannabis products at point of sale to customer; and

6 (E) facility inspection requirements and procedures.

7 (6) Rules concerning testing laboratories shall include:

8 (A) procedures and standards for testing cannabis and cannabis
9 products for contaminants, potency, and quality assurance and control;

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

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

14 (7) Rules concerning integrated licensees shall include the provisions
15 provided in subdivisions (a)(1)–(6) of this section and any additional
16 provisions the Board deems appropriate for safe regulation of integrated
17 licensees in accordance with this chapter.

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

21 § 882. SUSPENSION AND REVOCATION OF LICENSES; CIVIL

1 PENALTIES

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

5 (b) The Board shall have authority to issue civil citations for violations of
6 this chapter in accordance with rules adopted pursuant to this chapter. Any
7 proposed rule under this section shall include the full, minimum, and waiver
8 penalty amounts for each violation.

9 § 883. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS

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

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

1 § 884. CANNABIS ESTABLISHMENT IDENTIFICATION CARD

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

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

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

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

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

1 (ii) retailer licenses.

2 (B) The Board may develop tiers for other types of licenses.

3 (3)(A) Except as provided in subdivision (3)(B) of this subsection (d),
4 an applicant and its affiliates may obtain a maximum of one type of each type
5 of license as provided in subdivision (d)(1)(A)–(E) of this title. Each license
6 shall permit only one location of the establishment.

7 (B) An applicant and its affiliates that are a dispensary registered
8 pursuant to 18 V.S.A. chapter 86 may obtain one integrated license provided in
9 subdivision (d)(1)(F) of this title or a maximum of one of each type of license
10 provided in subdivision (d)(1)(A)–(E) of this title. An integrated licensee may
11 not hold a separate cultivator, wholesaler, product manufacturer, retailer, or
12 testing laboratory license. An integrated license shall permit only one location
13 for each of the types of activities permitted by the license: cultivation,
14 wholesale operations, product manufacturing, retail sales, and testing.

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

19 (f) Each licensee shall obtain and maintain commercial general liability
20 insurance in accordance with rules adopted by the Board. Failure to provide

1 proof of insurance to the Board, as required, may result in revocation of the
2 license.

3 (g) All licenses may be renewed according to procedures adopted through
4 rulemaking by the Board.

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

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

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

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

15 § 902. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

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

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

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

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

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

9 (1) the applicant;

10 (2) each proposed principal;

11 (3) each individual who would control the business.

12 (d) An applicant who is denied a license may appeal the Board's
13 determination in accordance with section 845 of this title.

14 § 903. PRIORITIES; BUSINESS AND TECHNICAL ASSISTANCE

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

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

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

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

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

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

8 (6) the geographic distribution of cannabis establishments based on
9 population and market needs.

10 (b) The Agency of Commerce and Community Development, in
11 collaboration with the Agency of Agriculture, Food and Markets, shall provide
12 business and technical assistance to Vermont applicants with priority for
13 services based on criteria adopted by the Board in accordance with subsection
14 (a) of this section.

15 § 904. CULTIVATOR LICENSE

16 (a) A cultivator licensed under this chapter may cultivate, process, package,
17 label, transport, test, and sell cannabis to a licensed wholesaler, product
18 manufacturer, retailer, integrated licensee, and dispensary.

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

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

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

5 (1) Packaging shall include:

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

7 (B) The strain and variety of cannabis contained.

8 (C) The potency of the cannabis represented by the amount of
9 tetrahydrocannabinol and cannabidiol in milligrams total and per serving

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

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

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

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

19 (e)(1) Only unadulterated cannabis shall be offered for sale. If, upon
20 inspection, the Board finds any violative pesticide residue or other

1 contaminants of concern, the Board shall order the cannabis, either
2 individually or in blocks, to be:

3 (A) put on stop-sale;

4 (B) treated in a particular manner; or

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

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

10 (3) A person may appeal an order issued pursuant to this section within
11 15 days after receiving the order. The appeal shall be made in writing to in
12 accordance with section 845 of this title and shall clearly identify the cannabis
13 affected and the basis for the appeal.

14 § 904a. SMALL CULTIVATORS

15 (a) It is the intent of the General Assembly to move as much of the illegal
16 cannabis market as possible into the regulated market for the purposes of
17 consumer protection and public safety. It is also the intent of the General
18 Assembly to encourage participation in the regulated cannabis market by
19 small, local farmers. In furtherance of these goals, the Board shall consider
20 policies to promote small cultivators. As used in this section, "small
21 cultivator" means a cultivator of not more than 500 square feet.

1 (b) During the initial application period for cultivator licenses, the
2 Board shall prioritize licenses for small cultivators.

3 (c) In accordance with subdivision 881(a)(2)(B) of this chapter, the Board
4 shall consider the different needs and risks of small cultivators when adopting
5 rules and shall make an exception or accommodation to such rules for
6 cultivators of this size where appropriate.

7 (d) Upon licensing, a small cultivator may sell cannabis to a licensed
8 dispensary at any time, for sale to patients and caregivers pursuant to the
9 dispensary license or to the public pursuant to an integrated license, including
10 the time period before retail sales are permitted for licensed cannabis retailers.

11 § 905. WHOLESALER LICENSE

12 A wholesaler licensed under this chapter may:

13 (1) purchase cannabis from a licensed cultivator and integrated licensee,
14 and cannabis products from a licensed product manufacturer, integrated
15 licensee, and dispensary;

16 (2) transport, process, package, and sell cannabis and cannabis products
17 to a licensed product manufacturer, retailer, integrated licensee, and
18 dispensary.

19 § 906. PRODUCT MANUFACTURER LICENSE

20 A product manufacturer licensed under this chapter may:

1 (1) purchase cannabis from a licensed cultivator, wholesalers, or
2 integrated licensee, and cannabis products from a licensed wholesaler, product
3 manufacturer, integrated licensee, and dispensary;

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

6 (3) transport, process, package, and sell cannabis products to a licensed
7 wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

8 § 907. RETAILER LICENSE

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

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

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

15 (b) In a single transaction, a retailer may provide one ounce of cannabis or
16 the equivalent in cannabis products, or a combination thereof, to a person 21
17 years of age or older upon verification of a valid government-issued
18 photograph identification card.

19 (c)(1) Packaging shall include:

20 (A) The strain and variety of cannabis contained.

1 (B) The potency of the cannabis represented by the amount of
2 tetrahydrocannabinol and cannabidiol in milligrams total and per serving.

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

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

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

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

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

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

18 § 908. TESTING LABORATORY LICENSE

19 (a) A testing laboratory licensed under this chapter may acquire, possess,
20 analyze, test, and transport cannabis and cannabis products obtained from a
21 licensed cannabis establishment, dispensary, or a member of the public.

1 (b) Testing may address the following:

2 (1) residual solvents;

3 (2) poisons or toxins;

4 (3) harmful chemicals;

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

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

7 (6) pesticides; and

8 (7) tetrahydrocannabinol and cannabidiol potency.

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

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

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

19 (f) A cannabis establishment that is subject to testing requirements under
20 this chapter or rules adopted pursuant to this chapter shall have its cannabis or
21 cannabis products tested by an independent licensed testing laboratory and not

1 a licensed testing laboratory owned or controlled by the license holder of the
2 cannabis establishment.

3 § 909. INTEGRATED LICENSE

4 (a) An integrated license shall allow the licensee to engage in the activities
5 of a cultivator, wholesaler, product manufacturer, retailer, and testing
6 laboratory as provided in sections 904–908 of this title.

7 (b) An integrated license is only available to an applicant and its affiliates
8 that hold a dispensary registration pursuant 18 V.S.A. chapter 86 on July 1,
9 2020. There shall be nor more than five total integrated licenses, one for each
10 registered dispensary. Upon compliance with all application procedures and
11 requirements, the Board shall issue an integrated license to the applicant. The
12 licensee shall have the right to renew the license in accordance with rules
13 adopted by the Board.

14 § 910. FEES

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

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

20 **Sec. 8. IMPLEMENTATION OF LICENSING CANNABIS**

21 **ESTABLISHMENTS**

1 (a)(1) The cannabis plant, cannabis product, and useable cannabis
2 possession limits for a registered dispensary set forth in 18 V.S.A. chapter 86
3 shall no longer apply on and after September 1, 2020. A dispensary shall be
4 permitted to cultivate cannabis and manufacture cannabis products for the
5 purpose of transferring or selling them to an integrated licensee on or after
6 January 15, 2021 and engaging in the activities permitted by 7 V.S.A. chapter
7 33.

8 (2) On or before January 15, 2021, the Board shall begin accepting
9 applications for integrated licenses.

10 (3) On or before February 15, 2021, the Board shall begin issuing
11 integrated licenses to qualified applicants. An integrated licensee may begin
12 selling cannabis and cannabis products transferred or purchased from a
13 dispensary immediately.

14 (b)(1) On or before January 15, 2021, the Board shall begin accepting
15 applications for cultivator licenses. During this initial application period, the
16 Board shall give priority to applications for small cultivator licenses. The
17 initial application period shall remain open for 30 days. The Board may
18 reopen the application process for any period of time at its discretion.

19 (2) On or before February 15, 2021, the Board shall begin issuing
20 cultivator licenses to qualified applicants. Upon licensing, cultivators shall be
21 permitted to sell cannabis to an integrated licensee and a dispensary licensed

1 pursuant to 18 V.S.A. chapter 86 prior to other types of cannabis establishment
2 licensees beginning operations.

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

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

9 (d)(1) On or before April 1, 2021, the Board shall begin accepting
10 applications for product manufacturer licenses and wholesaler licenses. The
11 initial application period shall remain open for 30 days. The Board may
12 reopen the application process for any period of time at its discretion.

13 (2) On or before May 15, 2021, the Board shall begin issuing product
14 manufacturer and wholesaler licenses to qualified applicants.

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

19 (2) On or before July 15, 2021, the Board shall begin issuing retailer
20 licenses to qualified applicants and sales of cannabis and cannabis products by
21 licensed retailers to the public shall be allowed immediately.

1 *** Medical Cannabis Registry ***

2 Sec. 9. [Deleted.]

3 Sec. 10. [Deleted.]

4 Sec. 11. [Deleted.]

5 *** Medical Cannabis Dispensaries ***

6 Sec. 12. [Deleted.]

7 Sec. 13. [Deleted.]

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

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

10 CHAPTER 207. CANNABIS TAXES

11 § 7900. DEFINITIONS

12 As used in this chapter:

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

14 (2) “Cannabis cultivator” has the same meaning as in 7 V.S.A. § 861.

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

16 (4) “Cannabis product manufacturer” has the same meaning as in 7

17 V.S.A. § 831.

18 (5) “Cannabis retailer” has the same meaning as in 7 V.S.A. § 861.

19 (6) “Cannabis wholesaler” has the same meaning as in 7 V.S.A. § 861.

20 (7) “Integrated licensee” has the same meaning as in 7 V.S.A. § 861.

1 (8) “Retail sale” or “sold at retail” means any sale, lease, or rental for
2 any purpose other than for resale by a cannabis retailer or integrated licensee.

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

4 § 7901. CANNABIS EXCISE TAX

5 (a) There is imposed a cannabis excise tax equal to 16 percent of the sales
6 price of each retail sale in this State of cannabis and cannabis products,
7 including food or beverages.

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

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

17 (d) The following sales shall be exempt from the tax imposed under this
18 section:

19 (1) sales under any circumstances in which the State is without power to
20 impose the tax;

1 (2) sales made by any dispensary as authorized under 18 V.S.A.
2 chapter 86, provided that the cannabis or cannabis product is sold only to
3 registered qualifying patients directly or through their registered caregivers;
4 and

5 (3) sales from a cannabis cultivator, cannabis product manufacturer,
6 cannabis wholesaler, or integrated licensee to a cannabis product manufacturer,
7 cannabis retailer, cannabis wholesaler, or integrated licensee.

8 § 7902. CANNABIS LOCAL OPTION TAX

9 (a) Notwithstanding 24 V.S.A. § 138, any municipality may collect a
10 cannabis local option tax of two percent of the sales price on each retail sale in
11 the municipality of cannabis and cannabis products, including food and
12 beverages.

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

14 (1) does not currently prohibit the retail sale of cannabis and cannabis
15 products within the municipality; and

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

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

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

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

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

10 (2) sales made by any dispensary as authorized under 18 V.S.A. chapter
11 86, provided that the cannabis or cannabis product is sold only to registered
12 qualifying patients directly or through their registered caregivers; and

13 (3) sales from a cannabis cultivator, cannabis product manufacturer,
14 cannabis wholesaler, or integrated licensee to a cannabis product manufacturer,
15 cannabis retailer, cannabis wholesaler, or integrated licensee.

16 (f) Any tax imposed under the authority of this section shall be collected
17 and administered by the Department of Taxes, in accordance with State law
18 governing the cannabis excise and cannabis local option taxes imposed under
19 chapter 207 of this title, and provided to the municipality in which they were
20 collected on a quarterly basis after reduction for the costs of administration and
21 collection. A tax imposed under this section shall be collected using a

1 destination basis for taxation. A per-return fee of \$5.96 shall be assessed to
2 compensate the Department for the costs of administration and collection,
3 which shall be paid by the municipality. The fee shall be subject to the
4 provisions of section 605 of this title.

5 (g) As used in this section, “municipality” means a city, town, or
6 incorporated village.

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

10 § 7903. LIABILITY FOR TAXES

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

16 (b) Every retailer or integrated licensee required to collect and remit tax
17 under this chapter to the Commissioner shall be personally and individually
18 liable for the amount of such tax together with such interest and penalty as has
19 accrued under the provisions of section 3202 of this title. If the retailer or
20 integrated licensee is a corporation or other entity, the personal liability shall
21 extend to any officer or agent of the corporation or entity who as an officer or

1 agent of the same has the authority to collect and remit tax to the
2 Commissioner of Taxes as required in this chapter.

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

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

18 § 7904. RETURNS; RECORDS

19 (a) Any retailer or integrated licensee required to collect tax imposed by
20 this chapter shall, on or before the 25th day of every month, return to the
21 Department of Taxes, under oath of a person with legal authority to bind the

1 retailer or integrated licensee, a statement containing its name and place of
2 business, the total amount of sales subject to the cannabis excise tax and
3 cannabis local option tax, if applicable, made in the preceding month, and any
4 information required by the Department of Taxes, along with the total tax due.
5 The Commissioner of Taxes may require that returns be submitted
6 electronically and may prohibit the remittance in cash of taxes collected.

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

11 § 7905. BUNDLED TRANSACTIONS

12 (a) Except as provided in subsection (b) of this section, a retail sale of a
13 bundled transaction that includes cannabis or a cannabis product is subject to
14 the cannabis excise tax and cannabis local option tax, where applicable,
15 imposed by this chapter on the entire selling price of the bundled transaction.
16 If there is a conflict with the bundling transaction provisions applicable to
17 another tax type, this section shall apply.

18 (b) If the selling price is attributable to products that are taxable and
19 products that are not taxable under this chapter, the portion of the price
20 attributable to the products that are nontaxable are subject to the tax imposed
21 by this chapter unless the retailer or integrated licensee can identify by

1 reasonable and verifiable standards the portion that is not subject to tax from
2 its books and records that are kept in the regular course of business, and any
3 discounts applied to the bundle must be attributed to the products that are
4 nontaxable under this chapter.

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

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

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

11 § 7906. LICENSE

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

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

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

12 § 7907. ADMINISTRATION OF CANNABIS TAXES

13 (a) The Commissioner of Taxes shall administer and enforce this chapter
14 and the tax. The Commissioner may adopt rules pursuant to 3 V.S.A. chapter
15 25 to carry out such administration and enforcement.

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

19 § 7908. STATUTORY PURPOSES

20 (a) The statutory purpose of the exemptions for cannabis and cannabis
21 products sold by any dispensary as authorized under 18 V.S.A. chapter 86 in

1 subdivisions 7901(d)(2) and 7902(e)(2) of this title is to lower the cost of
2 medical products in order to support the health and welfare of Vermont
3 residents.

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

7 § 7909. ADDITIONAL TAXES DO NOT APPLY

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

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

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

17 * * * Sales Tax Exemption * * *

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

19 (31) “Food and food ingredients” means substances, whether in liquid,
20 concentrated, solid, frozen, dried, or dehydrated form, that are sold for
21 ingestion or chewing by humans and are consumed for their taste or nutritional

1 value. “Food and food ingredients” does not include alcoholic beverages,
2 tobacco, cannabis and cannabis products as defined under 7 V.S.A. § 831, or
3 soft drinks.

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

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

6 * * * Tax Expenditure * * *

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

8 (mm) The statutory purpose of the exemption for cannabis and cannabis
9 products as defined under 7 V.S.A. § 831 in subdivision 9741(53) of this title
10 is to lower the cost of medical products sold by any dispensary as authorized
11 under 18 V.S.A. chapter 86 in order to support the health and welfare of
12 Vermont residents and avoid having both the sales tax and the cannabis excise
13 and cannabis local option taxes apply to cannabis and cannabis products that
14 are not sold as a medical product.

15 * * * Meals and Rooms Tax * * *

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

17 (10) “Taxable meal” means:

18 * * *

19 (D) “Taxable meal” shall not include:

20 (i) Food or beverage, other than that taxable under subdivision
21 (10)(C) of this section, that is a grocery-type item furnished for take-out: whole

1 pies or cakes, loaves of bread; single-serving bakery items sold in quantities of
2 three or more; delicatessen and nonprepackaged candy sales by weight or
3 measure, except party platters; whole uncooked pizzas; pint or larger closed
4 containers of ice cream or frozen confection; eight ounce or larger containers
5 of salad dressings or sauces; maple syrup; quart or larger containers of cider or
6 milk.

7 * * *

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

9 § 831.

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

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

15 * * * Income Tax Deduction * * *

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

17 § 5811. DEFINITIONS

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

20 * * *

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

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

7 * * *

8 (ii) decreased by:

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

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

15 (III) any federal deduction that the taxpayer would have been
16 allowed for the cultivation, testing, processing, or sale of cannabis or cannabis
17 products as authorized under 7 V.S.A. chapter 33 or 18 V.S.A. chapter 86, but
18 for 26 U.S.C. § 280E.

19 * * *

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

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(C) Decreased by the following exemptions and deductions:

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(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 18 V.S.A. chapter 86, but for 26 U.S.C. § 280E.

* * *

1 prevention programming and for necessary costs incurred in administering the
2 Fund. The Fund shall be administered by the Commissioner of Health or
3 designee.

4 (b) The Fund shall consist of revenues derived from:

5 (1) 30 percent of the revenues raised by the cannabis excise tax imposed
6 by 32 V.S.A. § 7901, but not more than \$6 million per fiscal year; and

7 (2) any other funds that may be dedicated by the General Assembly.

8 (c) All balances remaining at the end of any fiscal year shall be carried
9 forward and remain in the Fund.

10 (d) The Commissioner of Finance and Management may draw warrants for
11 disbursements from this Fund in anticipation of receipts.

12 * * * Impaired Driving * * *

13 Sec. 18c. 20 V.S.A. § 2358(f) is added to read:

14 (f) The criteria for all minimum training standards under this section shall
15 include Advanced Roadside Impaired Driving Enforcement training as
16 approved by the Vermont Criminal Justice Training Council. On or before
17 December 31, 2020, law enforcement officers shall receive a minimum of
18 16 hours of training as required by this subsection.

19 Sec. 18d. 23 V.S.A. § 1200 is amended to read:

20 § 1200. DEFINITIONS

21 As used in this subchapter:

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(3) “Evidentiary test” means a breath, saliva, or blood test ~~which~~ that indicates the person’s alcohol concentration or the presence of other drug and ~~which~~ that is intended to be introduced as evidence.

* * *

Sec. 18e. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF
ALCOHOL OR OTHER SUBSTANCE; CRIMINAL REFUSAL;
ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person’s alcohol concentration is:

(A) 0.08 or more; ~~or~~

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial vehicle as defined in subdivision 4103(4) of this title; or

(2) when the person is under the influence of alcohol; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug; ~~or~~

1 section shall be presumptively admissible at trial to demonstrate whether or not
2 the person was operating under the influence in violation of this section.

3 Sec. 18f. 23 V.S.A. § 1202 is amended to read:

4 § 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD
5 ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

6 (a)(1) Implied consent. Every person who operates, attempts to operate, or
7 is in actual physical control of any vehicle on a highway in this State is deemed
8 to have given consent to an evidentiary test of that person's breath for the
9 purpose of determining the person's alcohol concentration or the presence of
10 other drug in the blood. The test shall be administered at the direction of a law
11 enforcement officer.

12 (2) Blood test. If breath testing equipment is not reasonably available or
13 if the officer has reason to believe that the person is unable to give a sufficient
14 sample of breath for testing or if the law enforcement officer has reasonable
15 grounds to believe that the person is under the influence of a drug other than
16 alcohol, the person is deemed to have given consent to the taking of an
17 evidentiary sample of blood. If in the officer's opinion the person is incapable
18 of decision or unconscious or dead, it is deemed that the person's consent is
19 given and a sample of blood shall be taken. A blood test sought pursuant to
20 this subdivision (2) shall be obtained pursuant to subsection (f) of this section.

1 (3) Saliva test. If the law enforcement officer has reasonable grounds to
2 believe that the person is under the influence of a drug other than alcohol, or
3 under the combined influence of alcohol and a drug, the person is deemed to
4 have given consent to providing of an evidentiary sample of saliva. A saliva
5 test sought pursuant to this subdivision (3) shall be obtained pursuant to
6 subsection (f) of this section. Any saliva test administered under this section
7 shall be used only for the limited purpose of detecting the presence of a drug in
8 the person's body, and shall not be used to extract DNA information.

9 (4) Evidentiary test. The evidentiary test shall be required of a person
10 when a law enforcement officer has reasonable grounds to believe that the
11 person was operating, attempting to operate, or in actual physical control of a
12 vehicle in violation of section 1201 of this title.

13 ~~(4)~~(5) Fatal collision or incident resulting in serious bodily injury. The
14 evidentiary test shall also be required if the person is the surviving operator of
15 a motor vehicle involved in a fatal incident or collision or an incident or
16 collision resulting in serious bodily injury and the law enforcement officer has
17 reasonable grounds to believe that the person has any amount of alcohol or
18 other drug in his or her system.

19 (b) A refusal to take a breath test may be introduced as evidence in a
20 criminal proceeding.

1 (c) A person who is requested by a law enforcement officer to submit to an
2 evidentiary test or tests has a right as limited in this subsection to consult an
3 attorney before deciding whether or not to submit to such a test or tests. The
4 person must decide whether or not to submit to the evidentiary test or tests
5 within a reasonable time and not later than 30 minutes after the time of the
6 initial attempt to contact the attorney. The person must make a decision about
7 whether to submit to the test or tests at the expiration of the 30 minutes,
8 regardless of whether a consultation took place.

9 (d) At the time a test is requested, the person shall be informed of the
10 following statutory information:

11 (1) Vermont law authorizes a law enforcement officer to request a test to
12 determine whether the person is under the influence of alcohol or other drug.

13 (2) If the officer's request is reasonable and testing is refused, the
14 person's license or privilege to operate will be suspended for at least six
15 months.

16 (3) If a test is taken and the results indicate that the person is under the
17 influence of alcohol or other drug, the person will be subject to criminal
18 charges and the person's license or privilege to operate will be suspended for at
19 least 90 days.

20 (4) A person who is requested by a law enforcement officer to submit to
21 an evidentiary test or tests has the limited right to consult an attorney before

1 deciding whether or not to submit to such a test or tests. The person must
2 decide whether or not to submit to the evidentiary test or tests within a
3 reasonable time and no later than 30 minutes from the time of the initial
4 attempt to contact the attorney, regardless of whether a consultation took place.
5 The person also has the right to have additional tests made by someone of the
6 person's own choosing at the person's own expense. The person shall also be
7 informed of the location of one or more facilities available for drawing blood.

8 (5) A person who is requested by a law enforcement officer to submit to
9 an evidentiary test administered with an infrared breath-testing instrument may
10 elect to have a second infrared test administered immediately after receiving
11 the results of the first test.

12 (6) If the person refuses to take an evidentiary test, the refusal may be
13 offered into evidence against the person at trial, whether or not a search
14 warrant is sought. The person may be charged with the crime of criminal
15 refusal if the person:

16 (A) has previously been convicted of a violation of section 1201 of
17 this title; or

18 (B) is involved in an accident or collision resulting in serious bodily
19 injury or death to another, in which case the court may issue a search warrant
20 and order the person to submit to a blood test, the results of which may be
21 offered into evidence against the person at trial.

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(f)(1) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in an accident or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. ~~If Pursuant to subsection (d)(6) of this section, if~~ a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary ~~breath~~ sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

(2) If an evidentiary saliva test is sought from a person pursuant to subdivision (a)(3) of this section, a law enforcement officer may apply for a search warrant pursuant Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of saliva for the evidentiary test. Pursuant to subdivision (d)(6) of this section, if a saliva sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test.

1 (g) The Defender General shall provide statewide 24-hour coverage seven
2 days a week to assure that adequate legal services are available to persons
3 entitled to consult an attorney under this section.

4 Sec. 18g. 23 V.S.A. § 1203 is amended to read:

5 § 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND
6 VIDEOTAPE

7 (a) A breath test shall be administered only by a person who has been
8 certified by the Vermont Criminal Justice Training Council to operate the
9 breath testing equipment being employed. In any proceeding under this
10 subchapter, a person's testimony that he or she is certified to operate the breath
11 testing equipment employed shall be prima facie evidence of that fact.

12 (b)(1) Only a physician, licensed nurse, medical technician, physician
13 assistant, medical technologist, ~~or~~ laboratory assistant, intermediate or
14 advanced emergency medical technician, or paramedic acting at the request of
15 a law enforcement officer may withdraw blood for the purpose of determining
16 the presence of alcohol or ~~other~~ another drug. ~~This limitation does~~ Any
17 withdrawal of blood shall not be taken at roadside. These limitations do not
18 apply to the taking of a breath sample. A medical facility or business may not
19 charge more than \$75.00 for services rendered when an individual is brought to
20 a facility for the sole purpose of an evidentiary blood sample or when an

1 emergency medical technician or paramedic draws an evidentiary blood
2 sample.

3 (2) A saliva sample may be obtained by a person authorized by the
4 Vermont Criminal Justice Training Council to collect a saliva sample for the
5 purpose of evidentiary testing to determine the presence of a drug. Any saliva
6 sample obtained pursuant to this section shall not be taken at roadside.

7 (c) ~~When a breath test which is intended to be introduced in evidence is~~
8 ~~taken with a crimper device or when~~ blood or saliva is withdrawn at an
9 officer's request, a sufficient amount of ~~breath~~ saliva or blood, as the case may
10 be, shall be taken to enable the person to have made an independent analysis of
11 the sample, and shall be held for at least 45 days from the date the sample was
12 taken. At any time during that period the person may direct that the sample be
13 sent to an independent laboratory of the person's choosing for an independent
14 analysis. The Department of Public Safety shall adopt rules providing for the
15 security of the sample. At no time shall the defendant or any agent of the
16 defendant have access to the sample. A preserved sample of breath shall not
17 be required when an infrared breath-testing instrument is used. A person tested
18 with an infrared breath-testing instrument shall have the option of having a
19 second infrared test administered immediately after receiving the results of the
20 first test.

1 (d) In the case of a breath, saliva, or blood test ~~administered using an~~
2 ~~infrared breath testing instrument~~, the test shall be analyzed in compliance with
3 rules adopted by the Department of Public Safety. The analyses shall be
4 retained by the State. A sample is adequate if the infrared breath testing
5 instrument analyzes the sample and does not indicate the sample is deficient.

6 ~~Analysis~~ An analysis of the person's breath saliva or blood ~~which~~ that is
7 available to that person for independent analysis shall be considered valid
8 when performed according to methods approved by the Department of Public
9 Safety. The analysis performed by the State shall be considered valid when
10 performed according to a method or methods selected by the Department of
11 Public Safety. The Department of Public Safety shall use rule making
12 procedures to select its method or methods. Failure of a person to provide an
13 adequate breath or saliva sample constitutes a refusal.

14 (e) [Repealed.]

15 (f) When a law enforcement officer has reason to believe that a person may
16 be violating or has violated section 1201 of this title, the officer may request
17 the person to provide a sample of breath for a preliminary screening test using
18 a device approved by the Commissioner of Public Safety for this purpose. The
19 person shall not have the right to consult an attorney prior to submitting to this
20 preliminary breath alcohol screening ~~test~~. The results of this preliminary
21 screening ~~test~~ may be used for the purpose of deciding whether an arrest

1 should be made and whether to request an evidentiary test and shall not be
2 used in any court proceeding except on those issues. Following the screening,
3 ~~test~~ additional tests may be required of the operator pursuant to the provisions
4 of section 1202 of this title.

5 (g) The Office of the Chief Medical Examiner shall report in writing to the
6 Department of Motor Vehicles the death of any person as the result of an
7 accident involving a vehicle and the circumstances of such accident within five
8 days of such death.

9 (h) A Vermont law enforcement officer shall have a right to request a
10 breath, saliva or blood sample in an adjoining state or country under this
11 section unless prohibited by the law of the other state or country. If the law in
12 an adjoining state or country does not prohibit an officer acting under this
13 section from taking a breath, saliva, or blood sample in its jurisdiction,
14 evidence of such sample shall not be excluded in the courts of this State solely
15 on the basis that the test was taken outside the State.

16 (i) The Commissioner of Public Safety shall adopt emergency rules relating
17 to the operation, maintenance, and use of preliminary alcohol screening
18 devices for use by law enforcement officers in enforcing the provisions of this
19 title. The ~~commissioner~~ Commissioner shall consider relevant standards of the
20 National Highway Traffic Safety Administration in adopting such rules. Any
21 preliminary alcohol screening device authorized for use under this title shall be

1 on the qualified products list of the National Highway Traffic Safety
2 Administration.

3 * * *

4 Sec. 18h. 23 V.S.A. § 1203a(b) is amended to read:

5 (b) Arrangements for a blood test shall be made by the person submitting to
6 the evidentiary breath or saliva test, by the person's attorney, or by some other
7 person acting on the person's behalf unless the person is detained in custody
8 after administration of the evidentiary test and upon completion of processing,
9 in which case the law enforcement officer having custody of the person shall
10 make arrangements for administration of the blood test upon demand but at the
11 person's own expense.

12 Sec. 18i. 23 V.S.A. § 1204 is amended to read:

13 § 1204. PERMISSIVE INFERENCES

14 * * *

15 (b) The foregoing provisions shall not be construed as limiting the
16 introduction of any other competent evidence bearing upon the question
17 whether the person was under the influence of alcohol or under the combined
18 influence of alcohol and another drug, nor shall they be construed as requiring
19 that evidence of the amount of alcohol or drug in the person's blood, breath,
20 urine, or saliva must be presented.

1 Sec. 18j. DEPARTMENT OF PUBLIC SAFETY; DRUG RECOGNITION
2 EXPERTS; REPORT

3 On or before January 15, 2020, the Department of Public Safety shall report
4 to the House and Senate Committees on Judiciary and on Government
5 Operations on how to:

6 (1) achieve geographic equity in Drug Recognition Expert availability to
7 conduct roadside evaluations of drivers suspected of violating 23 V.S.A.
8 § 1201 across Vermont; and

9 (2) whether to expand the availability of the Drug Recognition Expert
10 program beyond law enforcement officers to other public safety officials to the
11 extent authorized by the national qualification standards of the International
12 Association of Chiefs of Police and the National Highway Traffic Safety
13 Administration.

14 Sec. 18k. DEPARTMENT OF PUBLIC SAFETY; NATIONAL HIGHWAY
15 TRAFFIC SAFETY ADMINISTRATION APPROVED SALIVA
16 TESTING DEVICE; REPORT

17 Upon the National Traffic Highway Safety Association identifying a
18 threshold level of concentration of a psychoactive metabolite of cannabis in a
19 person's bloodstream to establish impairment and approving a chemical testing
20 device for roadside use capable of demonstrating such a threshold level of
21 concentration of such psychoactive metabolite of cannabis in a person's

1 system, the Department of Public Safety shall report to the House and Senate
2 Committees on Judiciary and on Government Operations on a proposal to
3 implement the use of such a device to evaluate individuals suspected of
4 operating under the influence of marijuana in violation of 23 V.S.A. § 1201.

5 * * * Safety Belts * * *

6 Sec. 18l. 23 V.S.A. § 1259 is amended to read:

7 § 1259. SAFETY BELTS; PERSONS ~~AGE 18~~ YEARS OF AGE OR OVER

8 * * *

9 ~~(e) This section may be enforced only if a law enforcement officer has~~
10 ~~detained the operator of a motor vehicle for another suspected traffic violation.~~
11 ~~An operator shall not be subject to the penalty established in this section unless~~
12 ~~the operator is required to pay a penalty for the primary violation. [Repealed.]~~

13 (f) The penalty for violation of this section shall be as follows:

14 (1) ~~\$25.00~~ \$0.00 for a first violation;

15 (2) ~~\$50.00~~ \$25.00 for a second violation;

16 (3) \$50.00 for a third violation; and

17 (4) \$100.00 for ~~third~~ fourth and subsequent violations.

18 Sec. 18m. REPORTING BY THE VERMONT CRIMINAL JUSTICE

19 TRAINING COUNCIL

20 The Vermont Criminal Justice Training Council, in consultation with law
21 enforcement agencies, shall submit a written report to the House and Senate

1 Committees on Transportation and on Judiciary on or before the 15th day of
2 January in 2022, 2023, and 2024 containing, for the prior State fiscal year:

3 (1) the total number of traffic stops broken out by race of the driver
4 involved in the traffic stop; and

5 (2) the following information for all traffic stops involving safety belts
6 not worn by persons 18 years of age or over:

7 (A) the age, gender, and race of the driver involved in the traffic stop;

8 (B) the reason for the traffic stop;

9 (C) the type of search conducted, if any;

10 (D) the evidence located, if any;

11 (E) the outcome of the traffic stop, including whether:

12 (i) a written warning was issued,

13 (ii) a citation for a civil ticket was issued;

14 (iii) a citation or arrest for a misdemeanor or a felony occurred; or

15 (iv) no subsequent action was taken;

16 (F) summary data broken out by age, gender, race, and outcome of
17 the traffic stop where the reason for the stop was the primary enforcement of a
18 person 18 years of age or over not wearing a safety belt; and

19 (G) summary data broken out by age, gender, race, and outcome of
20 the traffic stop where the reason for the stop was for any reason other than the

1 primary enforcement of a person 18 years of age or over not wearing a safety
2 belt.

3 * * * Miscellaneous Cannabis Provisions * * *

4 Sec. 18n. 6 V.S.A. § 567 is amended to read:

5 § 567. AGENCY OF AGRICULTURE, FOOD AND MARKETS; TESTING

6 (a) The Agency of Agriculture, Food and Markets shall establish a cannabis
7 quality control program for the following purposes:

8 (1) to develop potency and contaminant testing protocols for hemp, ~~and~~
9 hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A.
10 § 831;

11 (2) to verify cannabinoid label guarantees of hemp, ~~and~~ hemp-infused
12 products, cannabis, and cannabis products as defined in 7 V.S.A. § 831;

13 (3) to test for pesticides, solvents, heavy metals, mycotoxins, and
14 bacterial and fungal contaminants in hemp, ~~and~~ hemp-infused products,
15 cannabis, and cannabis products as defined in 7 V.S.A. § 831; and

16 (4) to certify testing laboratories that can offer the services in
17 subdivisions (2) and (3) of this section.

18 (b) For purposes of this section, a laboratory operating under a dispensary
19 registration pursuant to 18 V.S.A. chapter 86 that offers the services in
20 subdivisions (2) and (3) of subsection (a) of this section on July 1, 2019 shall
21 be deemed certified by the Agency.

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

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

9 Sec. 20a. 18 V.S.A. § 4474n is added to read:

10 § 4474n. USE OF U.S. FOOD AND DRUG ADMINISTRATION-

11 APPROVED DRUGS CONTAINING ONE OR MORE

12 CANNABINOIDS

13 (a) Upon approval by the U.S. Food and Drug Administration (FDA) of
14 one or more prescription drugs containing one or more cannabinoids, the
15 following activities shall be lawful in Vermont:

16 (1) the clinically appropriate prescription for a patient of an FDA-
17 approved prescription drug containing one or more cannabinoids by a health
18 care provider licensed to prescribe medications in this State and acting within
19 his or her authorized scope of practice;

20 (2) the dispensing, pursuant to a valid prescription, of an FDA-approved
21 prescription drug containing one or more cannabinoids to a patient or a

1 patient's authorized representative by a pharmacist or by another health care
2 provider licensed to dispense medications in this State and acting within his or
3 her authorized scope of practice;

4 (3) the possession and transportation of an FDA-approved prescription
5 drug containing one or more cannabinoids by a patient to whom a valid
6 prescription was issued or by the patient's authorized representative;

7 (4) the possession and transportation of an FDA-approved prescription
8 drug containing one or more cannabinoids by a licensed pharmacy or
9 wholesaler in order to facilitate the appropriate dispensing and use of the drug;
10 and

11 (5) the use of an FDA-approved prescription drug containing one or
12 more cannabinoids by a patient to whom a valid prescription was issued,
13 provided the patient uses the drug only for legitimate medical purposes in
14 conformity with instructions from the prescriber and dispenser.

15 (b) Upon approval by the U.S. Food and Drug Administration of one or
16 more prescription drugs containing one or more cannabinoids, the Department
17 of Health shall amend its rules to conform to the provisions of subsection (a) of
18 this section.

19 Sec. 20b. REPEAL

20 2017 Act and Resolves No. 62, Sec. 8 (use of U.S. Food and Drug
21 Administration-approved drugs containing cannabidiol) is repealed.

1 Sec. 21. STATUTORY REVISION AUTHORITY

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

6 * * * Effective Dates * * *

7 Sec. 22. EFFECTIVE DATES

8 (a) This section and Secs. 18c (Advanced Roadside Impaired Driving
9 Enforcement training), 18j (drug recognition experts report), 18n (Agency of
10 Agriculture, Food and Markets; testing), 20 (cannabis dispensing), 20a
11 (F.D.A.-approved drugs containing one or more cannabinoids), 20b (repeal of
12 F.D.A.-approved drugs containing cannabidiol), and 21 (statutory revision
13 authority) shall take effect on passage.

14 (b) Secs. 1 (Title 7 redesignation), 2 (cannabis chapter), 3 (implementation
15 of the Cannabis Control Board), 4 (implementation of rulemaking by the
16 Cannabis Control Board, 5 (Cannabis Control Board; fees), 6 (creation of
17 Board positions), 6a (space allocation), 6b (appropriation), 7 (cannabis
18 establishments chapter), 8 (implementation of licensing of cannabis
19 establishments), 18a (Substance Misuse Prevention Fund), 18i (permissive
20 inference), 18k (National Highway Traffic safety Administration-approved

1 saliva testing device), and 19 (public place definition) shall take effect July 1,
2 2019.

3 (c) Secs. 14 (creation of excise and local option tax), 14a (tax license
4 disclosure), 15 (sales tax exemption), 16 (tax exemption), 17 (tax expenditure),
5 17a (meals and rooms tax), 17b (meals and rooms tax expenditure), and
6 18 (income tax deduction), 18b (Substance Misuse Prevention Fund), 18d
7 (definition of evidentiary test), 18e (operating vehicle under the influence of
8 alcohol or other substance), 18f (consent to taking of tests to determine blood
9 alcohol content or presence of other drug), 18g (administration of tests), and
10 18h (independent testing of evidentiary sample) shall take effect January 1,
11 2021.

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

13

14

15

16

17

18 (Committee vote: _____)

19

20

Representative _____

21

FOR THE COMMITTEE