

Summary of Sections of House Government Operations Amendment
to S.54, An act relating to the regulation of cannabis
May 6th, 2019

Sec. 1. Title 7 Redesignation (pg. 1)

- New title is “Alcoholic Beverages, Cannabis, and Tobacco”.

Sec. 2. Adding 7 V.S.A. chapter 31 (Cannabis) (pgs. 1–10)

- Affirms the current prohibition on consuming cannabis in a public place.
- Creates an independent commission named the Cannabis Control Board for the purpose of administering a program for licensed cannabis establishments. The Board is composed of five members who hire an executive director and an administrative assistant. There is an advisory committee comprised of people with expertise in various areas to assist the Board in its mission.
- Establishes the Cannabis Regulation Fund that will be composed of all application fees, annual license fees, renewal fees, and civil penalties collected by the Board regarding cannabis establishments. Monies in the fund are used solely for implementation, administration, and enforcement of the program.

Sec. 3. Implementation of the Cannabis Control Board (pg. 11)

- Sets forth initial terms of the members of the Board.

Sec. 4. Implementation of Rulemaking by the Cannabis Control Board (pg. 12)

- Directs the Board to initiate rulemaking for cannabis establishments on or before March 15, 2020.

Sec. 5. Cannabis Control Board; Fees; Report (pgs. 12-17)

- Directs the Board to provide recommendations to the General Assembly on or before January 15, 2020 regarding:
 - Resources necessary for implementation of the act for fiscal years 2021 and 2022, including positions and funding. The Board shall consider utilization of current expertise and resources within State government and cooperation with other State departments and agencies where there may be an overlap in duties.
 - Fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 844.
 - Whether monies expected to be generated by fees are sufficient to support the statutory duties of the Board and whether any portion of the tax established should be allocated to the Cannabis Regulation Fund to ensure these duties are met.
 - Whether monies collected pursuant to a local option tax should be shared with municipalities that host a cannabis establishment that is not a licensed retailer or integrated licensee and, if so, a recommended formula for sharing the revenue.
 - Land use or environmental regulatory requirements or standards applicable to cannabis establishments.
 - Energy or efficiency requirements or standards for the operation of cannabis establishments.

- Directs the Board to report to the General Assembly on or before March 1, 2020 whether licensed cannabis product manufacturers should be considered a food manufacturing establishment or food processor pursuant to 18 V.S.A. § 4301(7) for the purpose of licensing and regulation by the Department of Health.

- Directs the Board to report to the General Assembly on or before November 15, 2020 regarding:
 - A proposal to work with DOL, Agency of Commerce, and DOC to develop outreach, training, and employment programs focused on providing economic opportunities to individuals who historically have been disproportionately impacted by cannabis prohibition.
 - The experience of other jurisdictions with regulated cannabis markets that allow licensed retail cannabis establishments to provide on-line ordering services and to deliver to customers and the advantages and disadvantages of allowing such deliveries in Vermont.
 - Recommendations as to whether the General Assembly should consider adding additional types of cannabis licenses including a craft cooperative license, delivery license, or special event license.

- Recommendations as to whether cannabis and cannabis products should have a minimum amount of cannabidiol to aid in the prevention of the cannabis-induced psychosis that occurs in some users of cannabis and cannabis products.

Sec. 6. Creation of Board Positions (pg. 17)

- Creates three five-time board member positions, one executive director position, and one administrative assistant position.

Sec. 6a. Allocation of space (pg. 17)

- Directs BGS to allocate space for the Board no later than September 1, 2019.

Sec. 6b. Appropriation (pg. 17 - 18)

- Appropriates \$810,000.00 in FY 2020 from the Cannabis Regulation Fund to the Cannabis Control Board. This appropriation is made in anticipation of receipts in the fund.

Sec. 6c. Contingent Cannabis Regulation Fund Offset (pg. 18)

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

Sec. 6d. Auditor of Accounts Report (pg. 18)

- Requires the Auditor of Accounts to report to the General Assembly regarding the organizational structure and membership of the Cannabis Control Board and whether the structure continues to be the most efficient for carrying out the statutory duties of the Board on or before November 15, 2023.

Sec. 7. Adding 7 V.S.A. chapter 33 (Cannabis Establishments) (pgs. 18–51)

- Creates a program for licensing cannabis establishments for the purpose of regulating a legal, commercial cannabis and cannabis-product market.
- Towns may allow a licensed cannabis retailer to operate in the town by holding a vote at town meeting or a special election. All other types of licensed cannabis establishments would be permitted provided they comply with local requirements. Towns may establish a cannabis control commission (similar to local liquor control commission) for purpose of administering local permits. (Pages 24-25)
- Restrictions prohibit advertising that is false or deceptive, promotes overconsumption, or is designed to be particularly appealing to persons under 21 years of age. Cannabis establishments would not be permitted to advertise their products via a particular media unless the licensee can show that no more than 15 percent of the audience is reasonably expected to be under 21 years of age. All ads must receive prior approval by the Board. (Page 26)
- Prohibits licensee from dispensing or selling cannabis or cannabis products to a person under 21 years of age. Prohibits persons under 21 years of age from working at a cannabis establishment or being on the premises of a cannabis establishment. Allows Board to sanction cannabis establishment for violations involving youth through civil penalties, or suspension or revocation of license. (Pages 28-29)
- Allows six types of licenses: cultivator, product manufacturer, wholesaler, retailer, testing laboratory, and integrated. A person may hold a maximum of one type of each license and each license shall entitle the person to only one location. However, the integrated license is only available to the five current dispensary registrants and an integrated licensee would not be permitted to hold one of the other five. The Board is directed to create a tiered system of licensing for cultivators and retailers and the Board may establish tiers for other types of licenses. (Pages 40-51)
- The Board is directed to adopt extensive rules regarding numerous issues for each type of license. Topics range from seed to sale tracking, record keeping and security to regulation of consumer safety protections such as restrictions on the use of additives or pesticides, labeling requirements, testing of cannabis and cannabis products, and product information provided to consumers. (Pages 30-37)

- Product manufacturers may create and retailers and integrated licensees may sell cannabis products, including edibles. Rules address the amount of THC a product can contain, labeling and child-resistant packaging requirements, warnings, and consumer education. Certain types of cannabis products are banned. (Pages 30, 34-36, 47)
- Special consideration is given to small cultivators (under 500 square feet). Small cultivators are prioritized for the first licenses. Rules should accommodate the different needs of small cultivators and exceptions made where appropriate. Small cultivators may begin selling to dispensaries and integrated licensees prior to retailers operating. (Pages 46-47)
- Applicants must submit to a criminal history record check and check of any regulatory records relating to a business the person operated. The Board is required to adopt rules that set forth standards for determining whether an applicant should be denied a cannabis establishment license because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses will not automatically disqualify an applicant. (Pages 38-39, 42-43)
- The Board is required to issue licenses as determined according to a system of priorities adopted by rule by the Board. The system of priorities require consideration of criteria, including:
 - (1) whether the applicants have an existing medical cannabis dispensary license in good standing;
 - (2) whether the applicants would foster social justice and equity in the cannabis industry by being a minority- or women-owned business;
 - (3) whether the applicants propose specific plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who have historically been disproportionately impacted by cannabis prohibition;
 - (4) whether applicants propose specific plans to pay employees a living wage and offer benefits;
 - (5) whether the project incorporates principles of environmental resiliency or sustainability, including energy efficiency; and
 - (6) the geographic distribution of cannabis establishments based on population and market needs. (pages 43-44)

- The Agency of Commerce and Community Development, in collaboration with the Agency of Agriculture, Food and Markets, shall provide business and technical assistance to Vermont applicants with priority for services based on criteria adopted by the Board.

Sec. 8. Implementation of Licensing of Cannabis Establishments (pgs. 51-53)

- Creates a timeline for the Board to begin accepting and issuing licenses.
- Lifts the plant and cannabis limits from dispensaries on September 1, 2020 so they may begin to cultivate and produce products to sell or transfer to an integrated licensee in 2021.
- Board begins accepting first applications for cultivators and integrated licensees on or before January 15, 2021. During this initial application period, the Board must give preference to smaller cultivation operations in an effort to encourage small local farmers to enter the market. Integrated licensees may begin selling cannabis and cannabis products to the public immediately.
- Application periods for other types of licenses is on a rolling basis from February 2021 to July 2021 with retailers licensed by July 15, 2021.
- The initial application periods are open only for 30 days, but the Board may reopen the application process for any period of time at its discretion.

Sec. 9. Adding 7 V.S.A. chapter 35 (Medical Cannabis Registry) (pg. 54)

- Deleted

Sec. 10. Implementation of Medical Cannabis Registry (pg.54)

- Deleted

Sec. 11. Repeal of 18 V.S.A. chapter 86 (Therapeutic Use of Cannabis) (pg. 54)

- Deleted

Sec. 12. Adding 7 V.S.A. chapter 37 (Medical Cannabis Dispensaries) (pg. 54)

- Deleted

Sec. 13. Implementation of Medical Cannabis Dispensaries (pgs. 51–52)

- Deleted

Sec. 14. Creation of Excise and Local Option Tax (pgs. 54-63)

- See document #341000

Sec. 14a. Disclosure of Registered Tax Collectors (pg. 63)

- See document #341000

Sec. 15. Sales Tax Exemption (pg. 63-64)

- See document #341000

Sec. 16. Sales Tax Exemption (pg. 64)

- See document #341000

Sec. 17. Tax Expenditure (pg. 64)

- See document #341000

Sec. 17a. Meals and Rooms Tax Expenditure (pgs. 64-65)

- See document #341000

Sec. 17b. Meals and Rooms Tax Expenditure (pg. 65)

- See document #341000

Sec. 18. Income Tax Deduction (pgs. 65-67)

- See document #341000

Sec. 18a. Substance Misuse Prevention Fund (pg. 68)

- Creates the Substance Misuse Prevention Fund for the purpose of funding substance misuse prevention programming and for necessary costs incurred in administering the Fund. The Fund will be administered by the Commissioner of Health or designee. Takes effect 7/1/19.

Sec. 18b. Substance Misuse Prevention Fund (pgs. 68-69)

- Directs 30 percent of the revenues raised by the cannabis excise tax imposed by 32 V.S.A. § 7901, but not more than \$6 million per fiscal year, into the Fund.

Sec. 18c. Advanced Roadside Impaired Driving Enforcement Training (pg.69)

- Makes ARIDE training a part of basic training so required for all law enforcement officers. Directs Training Council to provide 16 hours of training to all officers by end of 2020.

Sec. 18d. Definition of evidentiary test (pgs. 69-70)

- Adds saliva to definition of evidentiary test.

Sec. 18e. Technical amendments (pgs.70-72)

- Makes technical amendments to DUI statute and codifies the presumptive admissibility of field sobriety test results and DRE evaluation results.

Sec. 18f. Implied consent (pgs. 72-77)

- Adds an evidentiary saliva test to the implied consent statute in the same manner as blood test. Provides that drivers are deemed to have given consent to the evidentiary testing of their saliva if law enforcement has reason to believe they are operating under the influence. Requires law enforcement to obtain a warrant, just as they must obtain a warrant for an evidentiary blood test. Allows a refusal to submit to an evidentiary saliva test to be introduced as evidence in a criminal proceeding (same is true for a blood sample).

Sec. 18g. Administration of tests (pgs. 77-81)

- Incorporates language from T. Bill adding EMTs and paramedics to list of professionals authorized to take a blood sample, and specifies that a blood sample shall not be withdrawn at roadside. Also provides that law enforcement certified by the Training Council may obtain a saliva sample and that a saliva sample shall not be taken roadside.

Sec. 18h. Blood tests (pg.81)

- Requires person to make arrangements for his or her own independent chemical analysis of an evidentiary sample of blood or saliva.

Sec. 18i. Permissive inference (pg. 81)

- Makes cleanup changes to permissive inference statute.

Sec. 18j. Drug Recognition Experts (pg. 82)

- Requires DPS report to standing committees by January of next year regarding plan to establish geographic equity in distribution of DREs across the state and plan to expand DRE program to the extent allowed by credentialing bodies.

Sec. 18k. Saliva Testing; Report (pgs. 82-83)

- Requires report from DPS contingent upon NHTSA approving a roadside chemical testing device and establishing a threshold level of THC metabolite concentration to demonstrate impairment. Report to set out plan for use of such preliminary device.

Sec. 18l. Safety belts (pg. 83)

- Allows for primary enforcement of safety belt requirement and amends civil penalties for violations.

Sec. 18m. Training Council Report (pgs. 83-85)

- Requires Criminal Justice Training Council to submit a written report to the House and Senate Committees on Transportation and on Judiciary on or before the 15th day of January in 2022, 2023, and 2024 containing, for the prior State fiscal year various traffic stop data.

Sec. 18n. Agency of Agriculture, Food, and Markets; Testing (pgs. 85-86)

Adds cannabis and cannabis products to the quality control program administered by the Agency (currently only for hemp).

Sec. 19. Cross-reference to Definition of “Public Place” (pg. 86)

- References the definition in the new Cannabis chapter.

Sec. 20. Cannabis “Gifting” (pgs. 86-87)

- Clarifies that a person 21 years of age or older may dispense an ounce or less of cannabis to another person 21 years of age or older provided the person does not promote or advertise the gifting.

Sec. 20a. Use of FDA-approved drugs containing one or more cannabinoids (pgs. 87-88)

- Codification of language that deems FDA-approved drugs containing one or cannabinoids lawful in Vermont. This language was enacted in 2017 in session law, but only applied to “cannabidiol.”

Sec. 20b. Use of FDA-approved drugs containing cannabidiol (Repeal) (pg. 88)

- Repeals the 2017 session law.

Sec. 21. Statutory Revision Authority (pg. 89)

- Directs the Office of Legislative Council to replace “marijuana” with “cannabis” throughout the statutes as needed for consistency with the act, as long as the revisions have no other effect on the meaning of the affected statutes.

Sec. 22. Effective Dates (pgs. 89-90)

- **On passage** - Secs. 18c (Advanced Roadside Impaired Driving Enforcement training), 18j (drug recognition experts report), 18n (Agency of Agriculture, Food and Markets; testing), 20 (cannabis dispensing), 20a (F.D.A.-approved drugs containing one or more cannabinoids), 20b (repeal of F.D.A.-approved drugs containing cannabidiol), and 21 (statutory revision authority).
- **July 1, 2019** - Secs. 1 (Title 7 redesignation), 2 (cannabis chapter), 3 (implementation of the Cannabis Control Board), 4 (implementation of rulemaking by the Cannabis Control Board, 5 (Cannabis Control Board; fees), 6 (creation of Board positions), 6a (space allocation), 6b (appropriation), 7 (cannabis establishments chapter), 8 (implementation of licensing of cannabis establishments), 18a (Substance Misuse Prevention Fund), 18i (permissive inference), 18k (National Highway Traffic safety Administration-approved saliva testing device), and 19 (public place definition).
- **January 1, 2021** - Secs. 14 (creation of excise and local option tax), 14a (tax license disclosure), 15 (sales tax exemption), 16 (tax exemption), 17 (tax expenditure), 17a (meals and rooms tax), 17b (meals and rooms tax expenditure), and 18 (income tax deduction), 18b (Substance Misuse Prevention Fund), 18d (definition of evidentiary test), 18e (operating vehicle under the influence of alcohol or other substance), 18f (consent to taking of tests to

determine blood alcohol content or presence of other drug), 18g (administration of tests), and 18h (independent testing of evidentiary sample).

- **July 1, 2021** - Secs. 6c (contingent cannabis regulation fund deficit offset) and 6d (Auditor of Accounts report).