

January 31, 2019

The Honorable Senator Richard Sears, Jr., Chair
The Honorable Senator Joseph Benning, Vice Chair
Vermont Senate Committee on Judiciary
115 State Street
Montpelier, VT 05633-5301

Chair Sears, Vice Chair Benning, and members of the Senate Committee on Judiciary:

In response to your invitation, I am writing to provide testimony to your Committee regarding the Cannabis Control Commission (Commission) and an overview of the Commission's work in Massachusetts.

Background

On November 8, 2016, Massachusetts voters voted 53% in favor of a ballot initiative known as "Question 4" authorizing the limited adult use of marijuana and the licensing of marijuana establishments, amongst other things. The ballot initiative became Chapter 334 of the Acts of 2016 and created the "Regulation and Taxation of Marijuana Act, G.L. c.94G ("2016 Marijuana Act").

In December 2016, the Massachusetts Legislature passed Chapter 351 of the Acts of 2016. Chapter 351 accomplished a number of things. It delayed the deadlines set in Chapter 334 for six months to allow the Legislature time to amend Chapter 334 (the timeline above reflects the delayed dates). It also required the Department of Public Health to enter into an agreement with a research entity to conduct a comprehensive baseline study of marijuana use in the commonwealth. DPH submitted a report of its findings on June 29, 2018. The report can be read at <https://www.mass.gov/files/documents/2018/06/29/DPH%20Legislative%20Report%20-%20Marijuana%20Baseline%20Health%20Study.pdf>.

On July 19, 2017, the Massachusetts Legislature passed a bill (H.3818) to amend Chapter 334 and the law it created, G.L. c.94G, as well as create additional laws relating to adult and medical use of marijuana. The bill became Chapter 55 of the Acts of 2017 ("2017 Marijuana Act"), which can be viewed here: <https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter55>.

The Commission, as established by c.94G, consists of five appointed Commissioners, three appointed individually by the Governor, Attorney General, and Treasurer, respectively, and two appointed by the Governor, Attorney General, and Treasurer, collectively by majority vote. The five appointed positions by area of background are: Public Safety, Public Health, Corporate Management, Oversight and Industry Management, and Policy and Social Justice.

The mission of the Commission is to honor the will of the voters of Massachusetts by safely, equitably and effectively implementing and administering the laws enabling access to adult use

marijuana in the Commonwealth and medical marijuana. This includes overseeing the licensing process for Marijuana Establishments.

In addition to the Commission, Chapter 55 created a twenty-five-person Cannabis Advisory Board (Board), with members appointed by state constitutional officers and advocacy groups. The purpose of the Board is to advise the Commission on numerous policy areas, including public health, public safety, private industry, market participation, and research. Chapter 55 also created a hemp-specific program run by the Department of Agricultural Resources.

As of January 24, 2019, the Commission received a total of 2,561 total applications. It has issued 19 commence operations notices, 16 final licenses, 72 provisional licenses, and has 263 completed applications under review. This data is available as part of the most recent staff presentation to the Commission, which can be viewed at <https://mass-cannabis-control.com/wp-content/uploads/2019/01/Deck-011019-v5.pdf>.

Regulations for adult and medical use of marijuana

The Commission approved final adult use regulations on March 7, 2018.

Under Chapter 334, the Commission assumed operational control of the medical use of marijuana program from the Massachusetts Department of Public Health on December 23, 2018. The Commission's final regulations for the medical use of marijuana program became effective on that date. All Commission regulations, including 935 CMR 500.000: *Adult Use of Marijuana*, 935 CMR 501.000: *Medical Use of Marijuana*; and 935 CMR 502.000: *Collocated Adult-Use and Medical-Use Operations* may be viewed on the Commission's website at <https://mass-cannabis-control.com/the-law/>.

Zoning and Local Control Provisions

Role of the Cannabis Control Commission

The Commission promulgated statewide regulations addressing public health issues such as products, labeling, advertising and potency; industry issues such as cultivation, distribution, transportation and seed-to-sale tracking; and market participation for communities including women, minority, and veteran-owned businesses, as well as growing cooperatives.

The Commission also reviews applications from candidates for licenses; determines which applicants may be awarded licenses, can deny an application or limit, condition, restrict, revoke or suspend a license; establish a registration process, based on finding of suitability or approval of licensure; and check the backgrounds of individuals associated with applicants or licensees.

A significant part of the licensing process occurs at the local level. During the application process, applicants are required to demonstrate that they have held a community outreach meeting within the past six months and that they have executed a Host Community Agreement (HCA) with the municipality. Once the application is complete, the municipality will be notified

and given an opportunity to confirm that the proposed location is compliant with bylaws or ordinances at the time the application was completed.

Local Process

The law both authorizes and limits the way in which municipalities can control Marijuana Establishments in their communities. It allows, but does not require, municipalities to pass bylaws and ordinances governing the “time, place, and manner” of Marijuana Establishments (cultivators, retailers, manufacturers, testing labs, and any other licensed marijuana-related businesses) as well as businesses dealing with marijuana accessories. Such bylaws and ordinances may not be “unreasonably impracticable.” Under the definition in the law, this means that the local laws cannot be so difficult to comply with that they would subject licensees to unreasonable risk, or require such a high risk of money, time or any other resource or asset, that a reasonably prudent businessperson would not operate a Marijuana Establishment.

Under state law, a Marijuana Establishment may not be located within 500 feet of a pre-existing public or private school providing education in kindergarten through 12. Municipalities may adopt an ordinance or bylaw to reduce that distance requirement but may not increase it.

Equity provisions

The Commission is committed to implementing a variety of programs to actively engage people from communities that have been disproportionately impacted by marijuana prohibition and enforcement and ensure their inclusion in the legal cannabis industry. State law requires the Commission to promote and encourage full participation by people from such communities and prioritize review and licensing decisions for businesses that promote economic empowerment in those communities.

In 2017, the Commission began identifying areas of disproportionate impact (ADI) based on “The impact of drug and cannabis arrests within the largest cities of Massachusetts”, a study by Jon B. Gettman, Ph. D. 29 cities and towns, including parts of Boston, Worcester, Springfield, and Lowell were designated as ADIs. This designation is not permanent but will be continually revisited and reevaluated. In addition to these geographic areas, those whose participation is encouraged under state law and regulations include people of color (specifically of African American/Black and Hispanic/Latino descent), women, farmers, and veterans. These groups were not evaluated solely based on arrest rates.

In order to ensure the desired equity outcomes noted above, the Commission has created two primary equity programs:

1. Economic Empowerment Priority Review

The Economic Empowerment Priority Review process moves successful applicants to the very front of the application line once they submitted all four application packets. The application review period took place from April 2 through April 16, 2018, and the Commission granted priority review status to 123 applicants who met the criteria. This status does not expire, and a

subset of the applicants will be eligible for the Social Equity Program regardless of their priority status.

2. Social Equity Program

The Social Equity Program is a two-phase program designed to build a pathway for individuals and businesses to enter, build, and support a robust adult-use industry, regardless of their desired level of involvement or specialty in the industry. The program will allow the Commission to reach those most impacted, particularly those of Black/African American and Hispanic/Latino descent as well as women, veterans and farmers, while also helping applicants reimagine how they can contribute to this new industry. The overall mission of the Social Equity Program is to decrease the disparities in life outcomes for impacted individuals and improve the quality of life in areas of disproportionate impact by:

1. Reducing barriers to entry in the commercial cannabis industry;
2. Providing professional, technical services, and mentoring for individuals and businesses facing systemic barriers; and
3. Promoting sustainable, socially, and economically reparative practices in the commercial adult-use marijuana industry in Massachusetts.

Revenue

Adult use marijuana sales in the Commonwealth are subject to Massachusetts' 6.25 percent sales tax, in addition to a 10.75 percent state marijuana excise tax and an optional 3 percent local tax. Cities and towns must affirmatively vote to adopt the local tax, and it may be any amount up to 3 percent. This creates an effective tax rate of 20 percent for adult use products. Medical marijuana remains untaxed.

From opening day for the first two adult use retail establishments in Massachusetts on November 20, 2018 to January 10, 2019, retail sales in the Commonwealth totaled \$23,819,602.

I hope the information above serves as a helpful explanation of the Commission's work and licensing process. Please do not hesitate to reach out to me if we can be of further assistance.

Sincerely,



Shawn Collins
Executive Director
Cannabis Control Commission