



Senate Judiciary Committee Testimony on S. 54
Laura Subin, director
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General

We support this bill and appreciate the effort that the Senate has made over the past several years to move VT towards a sensible system of taxed and regulated sales of cannabis to adults.

We think this bill is fundamentally what it should be: consumer protection legislation that will not only keep cannabis consumers safer but will also improve the public health and public safety of the state as a whole.

We also think that this bill provides a framework that will enable the emerging cannabis industry to be shaped in ways that reflect Vermont values. These include supporting small Vermont farms and businesses, a commitment to product quality and environmental protections.

It also offers an opportunity to continue to address what is, to me, personally, the most important priority: the racial, social, and economic injustices that have been perpetuated during the prohibition era. Ongoing criminal justice reforms such as automatic, free, expungement of marijuana possession convictions are critical. I know that expungement is an issue this Committee is already working on and I look forward to that ongoing conversation. We can also further social justice goals by proactively working to promote access to a legal cannabis industry for those individuals and communities that have suffered the most from marijuana prohibition.

§ 841 Cannabis Control Board

One of the best ways this legislation could promote equity priorities is to embed them in the composition of the Cannabis Control Board the bill would create. Vermont should follow the example of Massachusetts and reserve an appointment on that Board for someone with expertise in legal, policy and social and economic justice.

- ✓ *Massachusetts language requires that one commissioner have: “a background in legal, policy or social justice issues related to a regulated industry.” However, the commissioner filling that appointment recommends changing the “or” to an “and” and adding the word “economic”.*



§863 Regulation by Local Government

We strongly support the language in the bill that preserves local control by allowing municipalities to opt out of having cannabis establishments rather than forcing them to opt in to allowing them.

- ✓ This approach will result in greater predictability for businesses. It is consistent with Vermont’s approach to alcohol, and it is consistent with the approach of other states that have legalized adult use.
- ✓ Conversely an opt out requirement could result in unwanted consolidation of cannabis businesses in certain counties, creating an unfair economic advantage in those communities and defeating articulated geographic distribution goals.
- ✓ Although the Governor’s Marijuana Advisory Commission (herein “the Commission”) did not reach a recommendation on this issue, the Commission’s Tax and Regulate subcommittee did. It recommended, “following the existing model for liquor control under 7 V.S.A. Sec. 161, so that local communities could opt out of allowing cannabis establishments to operate in their jurisdictions.”
- ✓ The Committee should also consider including language to ensure a town/city’s elected officials do not enact restrictions that effectively ban cannabis establishments, even where voters have not chosen to do so.

Sample Language: “A municipality that has not prohibited cannabis establishments may not implement a permitting process, regulations, or bylaws that result in a de facto prohibition of cannabis establishments in the municipality or that require such a high investment of risk, money, time, or any other resource or asset that the operation of a cannabis establishment is not worthy of being carried out in practice by a reasonably prudent business person.

§864 Advertising

We recommend removing the ban on advertising that “represents that the use of cannabis has curative effects,” and instead only prohibiting advertising if it is not accurate.

- ✓ Far more dangerous prescription drugs can advertise.
- ✓ More will be understood about the therapeutic effects as legalization continues to move forward and it would be easier not to have to go back and remove a ban.



§881 Rulemaking

Rules concerning cultivators

We welcome the language that states: “The Board shall consider different needs and risks of small cultivators and excepting them from certain rules where appropriate.”

- ✓ *We think that this provision will be critical in allowing small local farms to be competitive.*
- ✓ *Access will be key to making sure the industry evolves “the Vermont Way.”*
- ✓ *Access will also be key to undermining the illicit market.*

§883 Criminal Background Checks

While we appreciate the language that “nonviolent drug offenses shall not automatically disqualify a candidate” that appears in a few places in the bill, this language does not go far enough.

- ✓ Other jurisdictions are going much further than this and are actually prioritizing applications by individuals who have been convicted of marijuana crimes.
- ✓ There are many types of nonviolent convictions that should not exclude an individual from participation in a legal marijuana industry. Quite to the contrary the economic opportunities of that industry should become employment opportunities that will help Vermonters break free from cycles of criminality and poverty.
- ✓ The Committee could specify criminal history that might be disqualifying or charge the Board to justify crimes that should prohibit access.
- ✓ At a minimum the word “automatically” should be removed from this provision throughout.

Licenses

§901 General Provisions

§901 (d)(2) “The Board shall develop tiers for cultivators licenses based on the plant canopy size of the cultivation operation and may develop tiers for other licenses as appropriate.”

Mandating tiered licensing for cultivators is essential and we applaud this provision. We are also glad that the bill contemplates tiered licensing for other types of establishments. This could be very helpful not only for small farms but for other types of small businesses.



We also support the language in the bill that gives preference for smaller cultivation operations in an effort to encourage small farmers to enter the market.

We urge the Committee to consider going even further with this concept and following the Commission recommendation that “at the start of legalized sales only the smallest tier cultivation licenses would be available,” and articulated that there should not be limits on the number of the smallest tier licenses. The Commission felt that, “the issuance of medium, and large sized cultivators should be phased in one or two years after legalized sales begin with potential exceptions for existing medical dispensaries entering the recreational market.”

Additional types of licenses

The Tax and Regulate Subcommittee of the Commission also recommended consideration of a separate sales representative license, “similar to the sales representative license for alcoholic beverages, that would only be available to the smallest tier of cultivators. It would allow small cultivators to sell their products directly to consumers at retail, for a lower fee than the retail license.” All of the other requirements of a retail license would apply.

The Committee should also consider creating a separate license (or permit) that would allow consumption and could allow sale of cannabis and at special events. This would be critical to reducing illicit marijuana activity and could also create opportunities for legal cannabis entrepreneurs (*sample language attached*).

Should the Committee prefer to defer consideration of additional license categories to the Board, it should allow the Board to issue additional types of licenses at its discretion.

§903 Priorities

We support the licensing priorities that the bill would establish. They should, however, go farther towards promoting social justice goals. In addition to prioritizing minority and women owned businesses and those that would create opportunities for minorities and women, priority should be given to applicants that can demonstrate that they were harmed by prohibition, or that they are a resident of, or would starting cannabis business in, a community disproportionately impacted by prohibition (this could be determined by arrest rates or other public information).



\$909 Fees

The Committee should consider setting maximum fees in the statute. This is critical to access and economic justice goals.

Responses to Recent Testimony

Edibles

- ✓ We challenge testimony that asserted that tax and regulation of cannabis would be creating an illicit market in edibles that does not already exist. There is increasing, easily verifiable, evidence of a robust illicit cannabis edibles market in Vermont.
- ✓ Manufacturers and consumers of edibles want regulation
- ✓ Many of the most important consumer protections are needed most in regard to edible and other infused products.
- ✓ The idea that doing nothing is better for public health is simply not credible.

Delivery

The Ban on delivery should be eliminated.

- ✓ There is a robust and growing illicit delivery market in Vermont.
- ✓ Massachusetts will have it, probably as soon as April.
- ✓ Delivery will promote equitable geographic distribution.

Lounges and/or other places for tourist and public consumption.

- ✓ Cannabis friendly events, cannabis vacation homes, etc. are happening now.
- ✓ Failing to provide a public place for consumption perpetuates economic injustice in cannabis policy. If a person owns his or her own home that person can cultivate and consume cannabis legally. If not, an individual depends on permission from a landlord. Those that live in federally subsidized housing are left entirely without a legal place to consume.