

S.188

An act relating to regulating licensed small cannabis cultivation as farming

The House concurs in the Senate proposal of amendment to House Proposal of Amendment with further amendment thereto as follows:

First: By striking out Sec.1 in its entirety and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 861 is amended to read:

§ 861. DEFINITIONS

As used in this chapter:

* * *

(16) “Child-deterrent packaging” means tear-resistant packaging that can be sealed in a manner that would deter children under five years of age from easily accessing the contents of the package within a reasonable time and not difficult for adults to use properly.

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

reasonable time.

~~(17)~~(18) “Controls,” “is controlled by,” and “under common control” mean the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise. A person who directly or beneficially owns 10 percent or more equity interest, or the equivalent thereof, of another person shall be deemed to control the person.

~~(18)~~(19) “Dispensary” means a business organization licensed pursuant to chapter 37 of this title or 18 V.S.A. chapter 86.

~~(19)~~(20) ~~“Enclosed, locked facility” means a building, room, greenhouse, outdoor fenced in area, or other location that is enclosed on all sides and prevents cannabis from easily being viewed by the public. The facility shall be equipped with locks or other security devices that permit access only by:~~

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

~~(B) Government employees performing their official duties.~~

~~(C) Contractors performing labor that does not include cannabis cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where~~

~~cannabis is being grown, processed, packaged, or stored.~~

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

~~(20)~~(21) “Flavored oil cannabis product” means any oil cannabis product that contains an additive to give it a characterizing flavor.

(22) “Hemp” means the plant Cannabis sativa L. and any part of the plant, including the seeds and all derivatives, extracts, cannabinoids, acids, salts, isomers, and salts of isomers, whether growing or not, with the federally defined tetrahydrocannabinol concentration level of hemp.

(23) “Hemp products” or “hemp-infused products” means all products with the federally defined tetrahydrocannabinol concentration level for hemp derived from, or made by, processing hemp plants or plant parts that are prepared in a form available for commercial sale, including cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, fuel, paint, paper, construction materials, plastics, and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

~~(21)~~(24) “Integrated licensee” means a person licensed by the Board to

engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory in accordance with this chapter.

~~(22)~~(25) “Municipality” means a town, city, or incorporated village.

(26) “Owner” means a natural person who controls, or shares control of, a Cannabis Establishment.

~~(23)~~(27) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

~~(24)~~(28) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

~~(25)~~(29) “Principal” means ~~an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member managed limited liability company; and a partner of a partnership~~ one of the following:

(A) the president, vice president, secretary, treasurer, manager, or

similar officer of a corporation as provided for by 11A V.S.A. § 8.40,
nonprofit corporation as provided for by 11B V.S.A. § 8.40, mutual benefit
enterprise as provided for by 11C V.S.A. § 822, cooperative as provided for by
11 V.S.A. § 1013, or worker cooperative corporation as provided for by
11 V.S.A. § 1089;

(B) a director of a corporation as provided for by 11A V.S.A. § 8.01,
nonprofit corporation as provided for by 11B V.S.A. § 8.01, mutual benefit
enterprise as provided for by 11C V.S.A. § 801, cooperative as provided for by
11 V.S.A. § 1006, or worker cooperative corporation as provided for by
11 V.S.A. § 1089;

(C) a member of a member-managed limited liability company as
provided for by 11 V.S.A. § 4054;

(D) manager of a manager-managed limited liability company as
provided for by 11 V.S.A. § 4054; or

(E) a partner of a partnership as provided for by 11 V.S.A. § 3212 or
a general partner of a limited partnership as provided for by 11 V.S.A.
chapter 23.

~~(26)~~(30) “Small cultivator” means a cultivator with a plant canopy or
space for cultivating plants for breeding stock of not more than 1,000 square
feet.

Second: By adding Secs. 10–22 to read as follows:

Sec. 10. 7 V.S.A. § 862a is added to read:

§ 862a. SYNTHETIC AND HEMP-DERIVED CANNABINOIDS

The Board shall have the authority to regulate synthetic cannabinoids and hemp-derived cannabinoids, including delta-8 and delta-10 tetrahydrocannabinol.

Sec. 11. 7 V.S.A. § 868 is amended to read:

§ 868. PROHIBITED PRODUCTS

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

- (1) cannabis flower with greater than 30 percent tetrahydrocannabinol;
- (2) ~~solid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol;~~
- (3) ~~oil cannabis products except for those that are sold prepackaged for use with battery powered devices;~~
- (4) flavored oil cannabis products sold prepackaged for use with battery-powered devices and any cannabis flower that contains characterizing flavor that is not naturally occurring in the cannabis;
- (5)(3) cannabis products that contain delta-9 tetrahydrocannabinol and nicotine or alcoholic beverages; and

~~(6)~~(4) any cannabis, cannabis products, or packaging of such items that are designed to make the product more appealing to persons under 21 years of age.

(b)(1) Except as provided by subdivision (2) of this subsection, solid and liquid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol may be produced by a licensee and sold to another licensee in accordance with subchapter 3 of this chapter but shall not be sold to the public by a licensed retailer or integrated licensee.

(2) Liquid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol that are prepackaged for use with battery-powered devices shall be permitted to be sold to the public by a licensed retailer or integrated licensee.

Sec. 12. 7 V.S.A. § 881 is amended to read:

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

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

(1) Rules concerning any cannabis establishment shall include:

* * *

(I) regulation of additives to cannabis and cannabis products, including ~~those~~ cannabidiol derived from hemp and substances that are toxic or

designed to make the product more addictive, more appealing to persons under 21 years of age, or to mislead consumers;

* * *

(3) Rules concerning product manufacturers shall include:

(A) requirements that a single package of a cannabis product shall not contain more than 50 milligrams of THC, except in the case of:

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

(ii) solid concentrates, oils, and tinctures; and

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

* * *

(5) Rules concerning retailers shall include:

* * *

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

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

* * *

Sec. 13. 7 V.S.A. § 883 is amended to read:

§ 883. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS

(a) The Board shall obtain from the Vermont Crime Information Center a copy of a ~~license applicant's~~ fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation for each license applicant, principal of an applicant, and person who controls an applicant who is a natural person.

(b) The Board shall 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 shall not automatically disqualify an applicant.

(c) Notwithstanding subsection (a) of this section, the Board may accept third-party criminal background checks submitted by an applicant for a cannabis establishment license or renewal in lieu of obtaining the records from the Vermont Crime Information Center a copy of the person's Vermont fingerprint-based criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

Any such third-party background check shall:

(1) be conducted by a third-party consumer reporting agency or background screening company that is in compliance with the federal Fair Credit Reporting Act; and

(2) include a multistate and multi-jurisdiction criminal record locator.

Sec. 14. 7 V.S.A. § 884 is amended to read:

§ 884. CANNABIS ESTABLISHMENT IDENTIFICATION CARD

(a) Every owner, principal, and employee of a cannabis establishment shall obtain an identification card issued by the Board. A person may apply for an identification card prior to obtaining employment with a licensee. An employee identification card shall authorize the person to work for any licensee.

(b)(1)(A) Prior to issuing the identification card to an owner or principal of a cannabis establishment, the Board shall obtain from the Vermont Crime Information Center a copy of the person's Vermont fingerprint-based criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(B) Prior to issuing the identification card to an employee of a cannabis establishment, the Board shall obtain a copy of a fingerprint-based identity history summary record from the Federal Bureau of Investigation.

(2) The Board shall adopt rules that set forth standards for determining whether a person should be denied a cannabis establishment identification card 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 shall not automatically disqualify an applicant.

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

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

Sec. 15. 7 V.S.A. § 901(d)(3) is amended to read:

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

establishment.

(B) An applicant and its affiliates that ~~are~~ control a dispensary registered ~~pursuant to 18 V.S.A. chapter 86~~ on April 1, 2022 may obtain one integrated license provided in subdivision (1)(F) of this subsection (d) or a maximum of one of each type of license provided in subdivisions (1)(A)–(E) of this subsection (d). An integrated licensee may not hold a separate cultivator, wholesaler, product manufacturer, retailer, or testing laboratory license, and no applicant or its affiliates that control a dispensary shall hold more than one integrated license. An integrated license shall permit only one location for each of the types of activities permitted by the license: cultivation, wholesale operations, product manufacturing, retail sales, and testing.

(C) An applicant and its affiliates may obtain multiple testing laboratory licenses.

Sec. 16. PURPOSE; LEGISLATIVE INTENT

The purpose of the amendment to 7 V.S.A. § 901(d)(3)(B) in Sec. 7 of this act is solely to make the language consistent with the defined terms used throughout 7 V.S.A. chapter 33. The amendment should not be construed to alter the meaning of the provision as it was originally enacted in 2019 Acts and Resolves No. 164, Sec. 7.

Sec. 17. 7 V.S.A. § 907 is amended to read:

§ 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

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

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

* * *

(e) ~~Internet ordering and delivery~~ Delivery of cannabis to customers ~~are~~ is prohibited.

Sec. 18. 7 V.S.A. § 909(c) is added to read:

(c) An integrated licensee shall comply with the provisions of subsection 908(f) of this title and have its cannabis or cannabis products tested by an independent licensed testing laboratory.

Sec. 19. 7 V.S.A. § 910(8) is amended to read:

(8) Products. ~~Retailers and integrated licensees~~ Cannabis establishments licensed by the Board shall be assessed an annual product licensing fee of \$50.00 for every type of cannabis and cannabis product that is sold in accordance with this chapter.

Sec. 20. 18 V.S.A. § 4230h is amended to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE
PROHIBITED

(a) No person shall manufacture concentrated cannabis by chemical extraction or chemical synthesis using butane or hexane ~~unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.~~

* * *

Sec. 21. 2019 Acts and Resolves No. 164, Sec. 8(a)(1) is amended to read:

(a)(1) The cannabis plant, cannabis product, and useable cannabis possession limits for a registered dispensary set forth in 18 V.S.A. chapter 86 shall no longer apply on and after February 1, 2022. A dispensary shall be permitted to cultivate cannabis and manufacture cannabis products for the purpose of transferring or selling such products to an integrated licensee on or after April 1, 2022 until October 1, 2022 and engaging in the activities permitted by 7 V.S.A. chapter 33.

Sec. 22. CANNABIS CONTROL BOARD; REPORT CANNABIS
CONCENTRATES

On or before December 1, 2022, the Cannabis Control Board shall report to the General Assembly with a summary of the regulated market share for solid

concentrates above 60% THC and the status of the illicit market for those
products in other states with a regulated adult-use cannabis market.

and by renumbering the remaining section to be numerically correct.