

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Agriculture and Forestry to which was referred Senate
3 Bill No. 188 entitled “An act relating to regulating licensed small cannabis
4 cultivation as farming” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

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

9 **§ 861. DEFINITIONS**

10 **As used in this chapter:**

11 * * *

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

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

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

19 (C) ~~Contractors performing labor that does not include cannabis~~
20 ~~cultivation, packaging, or processing. Contractors shall be accompanied by an~~

1 ~~employee, agent, or owner of the cultivator when they are in areas where~~
2 ~~cannabis is being grown, processed, packaged, or stored.~~

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 [Repealed.]~~

7 * * *

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

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

1 Sec. 2. 7 V.S.A. § 869 is amended to read:

2 § 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND
3 USE STANDARDS; REGULATION OF SMALL CULTIVATORS

4 (a)(1) A cannabis establishment shall not be regulated as “farming” under
5 the Required Agricultural Practices, 6 V.S.A. chapter 215, or other State law,
6 and cannabis produced from cultivation shall not be considered an agricultural
7 product, farm crop, or agricultural crop for the purposes of 32 V.S.A. chapter
8 124, 32 V.S.A. § 9741, or other relevant State law.

9 ~~(2) Notwithstanding subdivision (1) of this subsection, the cultivation of~~
10 ~~cannabis on agricultural land and the use of farm buildings to dry or process~~
11 ~~that cannabis shall not disqualify the land or buildings from the use value~~
12 ~~appraisal program or constitute “development” under 32 V.S.A. § 3752(5),~~
13 ~~provided that:~~

14 ~~(A) the agricultural land or farm building is enrolled in the use value~~
15 ~~appraisal program at the time cannabis cultivation commences;~~

16 ~~(B) the agricultural land or farm building is not transferred to another~~
17 ~~owner;~~

18 ~~(C) the cultivation, drying, or processing of cannabis is done by a~~
19 ~~licensed small cultivator on 1,000 square feet or less of agricultural land; and~~

20 ~~(D) all other requirements under 32 V.S.A. chapter 124 continue to~~
21 ~~be met.~~

1 (b) The cultivation, processing, and manufacturing of cannabis regulated
2 under this chapter shall comply with all applicable State, federal, and local
3 environmental, energy, or public health law, unless otherwise provided under
4 this chapter.

5 (c) A cannabis establishment regulated under this chapter shall be subject
6 to regulation under 24 V.S.A. chapter 117 as authorized by this chapter.

7 (d)(1) The cultivation, processing, and manufacturing of cannabis by all
8 cultivators regulated under this chapter shall comply with the following
9 sections of the Required Agricultural Practices as administered and enforced
10 by the Board:

11 (A) section 6, regarding conditions, restriction, and operating
12 standards;

13 (B) section 8, regarding groundwater quality and groundwater quality
14 investigations; and

15 (C) section 12, regarding subsurface tile drainage.

16 (2) Application of or compliance with the Required Agricultural
17 Practices under subdivision (1) of this subsection shall not be construed to
18 provide a presumption of compliance with or exemption to any applicable
19 State, federal, and local environmental, energy, public health, or land use law
20 required under subsections (b) and (c) of this section.

1 (e) Persons cultivating cannabis or handling pesticides for the purposes of
2 the manufacture of cannabis products shall comply with the worker protection
3 standard of 40 C.F.R. ~~part~~ Part 170.

4 (f) Notwithstanding subsection (a) of this section, a small cultivator
5 licensed under this chapter who initiates cultivation of cannabis outdoors on a
6 parcel of land that was subject to the Required Agricultural Practices prior to
7 licensed cultivation of cannabis shall:

8 (1) be regulated in the same manner as “farming” and not as
9 “development” on the tract of land where cultivation occurs for the purposes of
10 permitting under 10 V.S.A. chapter 151;

11 (2) not be regulated by a municipal bylaw adopted under 24 V.S.A.
12 chapter 117 in the same manner that Required Agricultural Practices are not
13 regulated by a municipal bylaw under 24 V.S.A. § 4413(d)(1)(A);

14 (3) be eligible to enroll in the Use Value Appraisal Program under
15 32 V.S.A. chapter 124 for the cultivation of cannabis, provided that the
16 agricultural land or farm building on the parcel where cannabis cultivation
17 occurs was enrolled in the Use Value Appraisal Program prior to
18 commencement of licensed cannabis cultivation and the parcel continues to
19 qualify for enrollment; and

20 (4) be exempt under 32 V.S.A. § 9741(3), (25), and (50) from the tax on
21 retail sales imposed under 32 V.S.A. § 9771.

1 Sec. 3. 7 V.S.A. § 881(a) is amended to read:

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

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

5 * * *

6 (Q) policies and procedures for conducting outreach and promoting
7 participation in the regulated cannabis market by diverse groups of individuals,
8 including those who have been disproportionately harmed by cannabis
9 prohibition; and

10 (R) advertising and marketing; and

11 (S) requirements for cannabis control testing of hemp, hemp-infused
12 products, cannabis, and cannabis products.

13 * * *

14 Sec. 4. 7 V.S.A. § 885 is added to read:

15 § 885. CANNABIS QUALITY CONTROL PROGRAM; TESTING

16 The Cannabis Control Board shall establish a cannabis quality control
17 program for the following purposes:

18 (1) to develop potency and contaminant testing protocols for hemp,
19 hemp-infused products, cannabis, and cannabis products;

20 (2) to verify cannabinoid label guarantees of hemp, hemp-infused
21 products, cannabis, and cannabis products;

1 (3) to test for pesticides, solvents, heavy metals, mycotoxins, and
2 bacterial and fungal contaminants in hemp, hemp-infused products, cannabis,
3 and cannabis products; and

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

6 **Sec. 5. REPEAL**

7 6 V.S.A. § 567 (Agency of Agriculture, Food and Markets cannabis control
8 program) is repealed.

9 Sec. **6.** 7 V.S.A. § 904 is amended to read:

10 § 904. CULTIVATOR LICENSE

11 (a) A cultivator licensed under this chapter may cultivate, process, package,
12 label, transport, test, and sell cannabis to a licensed wholesaler, product
13 manufacturer, retailer, integrated licensee, and dispensary and may purchase
14 and sell cannabis seeds and immature cannabis plants to another licensed
15 cultivator.

16 (b) Cultivation of cannabis shall occur only ~~in an enclosed, locked facility;~~

17 (1) on property lawfully in possession of the cultivator or with the
18 written consent of the person in lawful possession of the property; and

19 (2) in an area that is screened from public view and access is limited to
20 the cultivator and persons 21 years of age or older who have permission from
21 the cultivator.

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Sec. 7. 7 V.S.A. § 905 is amended to read:

§ 905. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

- (1) purchase cannabis from a licensed cultivator and integrated licensee, and cannabis products from a licensed product manufacturer, integrated licensee, and dispensary; ~~and~~
- (2) transport, process, package, and sell cannabis and cannabis products to a licensed product manufacturer, retailer, integrated licensee, and dispensary; and
- (3) sell cannabis seeds or immature cannabis plants to a licensed cultivator.

Sec. 8. 18 V.S.A. § 4230e is amended to read:

§ 4230e. CULTIVATION OF CANNABIS BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates ~~no~~ not more than two mature cannabis plants and four immature cannabis plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

1 (2) Each dwelling unit shall be limited to two mature cannabis plants
2 and four immature cannabis plants regardless of how many persons 21 years of
3 age or older reside in the dwelling unit. As used in this section, “dwelling
4 unit” means a building or the part of a building that is used as a primary home,
5 residence, or sleeping place by one or more persons who maintain a household.

6 (3) Any cannabis harvested from the plants allowed pursuant to this
7 subsection shall not count toward the one-ounce possession limit in section
8 4230a of this title, provided it is stored in an indoor facility on the property
9 where the cannabis was cultivated and reasonable precautions are taken to
10 prevent unauthorized access to the cannabis.

11 (4) Cultivation in excess of the limits provided in this subsection shall
12 be punished in accordance with section 4230 of this title.

13 (b)(1) Personal cultivation of cannabis only shall occur:

14 (A) on property lawfully in possession of the cultivator or with the
15 written consent of the person in lawful possession of the property; and

16 (B) in an ~~enclosure~~ area that is screened from public view and ~~is~~
17 ~~secure so that~~ access is limited to the cultivator and persons 21 years of age or
18 older who have permission from the cultivator.

19 (2) A person who violates this subsection shall be assessed a civil
20 penalty as follows:

21 (A) not more than \$100.00 for a first offense;

1 (B) not more than \$200.00 for a second offense; and

2 (C) not more than \$500.00 for a third or subsequent offense.

3 Sec. 9. CANNABIS CONTROL BOARD; REPORTS; REGULATION OF
4 HEMP PROCESSORS, MANUFACTURERS, AND PRODUCTS;
5 CANNABIS CULTIVATION AS FARMING

6 (a) On or before January 15, 2023, the Cannabis Control Board shall
7 submit to the House Committees on Agriculture and Forestry and on Ways and
8 Means and the Senate Committees on Agriculture and on Finance written
9 recommendations on how the Cannabis Control Board would regulate hemp
10 products, as that term is defined in 7 V.S.A. § 861; hemp processors; and hemp
11 product manufacturers. The recommendations shall include:

12 (1) what hemp products the Cannabis Control Board would regulate;

13 (2) how the products would be regulated, including whether registration
14 would be required and whether hemp processors and manufacturers should be
15 licensed and regulated by the Board;

16 (3) any registration fees or other charges that would be assessed on
17 hemp products and license fees assessed on hemp processors and
18 manufacturers; and

19 (4) the resources required to regulate hemp processors, product
20 manufacturers, and hemp products.

21 (b) If the federal government removes “marihuana” from the Schedule 1

1 list of controlled substances set forth in 21 U.S.C. § 812, the Executive
2 Director of the Cannabis Control Board shall, after consultation with the
3 Secretary of Agriculture, Food and Markets, submit to the Senate Committees
4 on Judiciary and on Agriculture and the House Committees on Judiciary and
5 on Agriculture and Forestry a recommendation as to whether the regulation of
6 the cultivation of cannabis should be transferred from the jurisdiction of the
7 Cannabis Control Board to the jurisdiction of the Agency of Agriculture, Food
8 and Markets. The recommendation shall include whether cannabis cultivation
9 should be regulated as “farming” and the estimated staff and budget necessary
10 for the Secretary of Agriculture, Food and Markets to administer regulations.

11 Sec. 10. EFFECTIVE DATE

12 This act shall take effect on passage.

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17 (Committee vote: _____)

18 _____

19 Representative _____

20 FOR THE COMMITTEE