

## S.188

Provided by: Graham - Policy Director at Rural VT, farmer; member organization of the VT Cannabis Equity Coalition (which includes the racial justice alliance, the VT Growers Association, the founder of Trace VT, as well as two of the 3 largest member based agricultural organizations in the State - NOFA VT and Rural VT). Rural VT has been advocating on this issue - increasingly so - since 2016. Our coalition has been working with the legislature as well as the CCB to affect a legalized and regulated cannabis space which is racially just, economically equitable, agriculturally accessible, and environmentally sound since 2020. We have provided recommendations and testimony on numerous occasions that speak to the needs, concerns, and opportunities we have heard from members of our organizations, members of the Vermont community, and small farms and businesses. I am a small farmer myself - and Rural VT often focuses on scale appropriate regulation based on the expressed needs of our community members, and in the interest of market parity, climate change resilience, and social equity.

### **Asks and questions in relationship to this bill (Sears, Pollina, Kyle, Ag Committees):**

- Indoor production is not agricultural, even the small cultivator tier. The O'Grady amendment offered supports this. We are happy to speak more about the reasons justifying this - but given the perceived acceptance of the amendment, will not at this time.
- All outdoor cultivation shall be considered "agricultural". Last week Sen. Pearson referred to a previous bill (S.54, draft 2.1) passed which included what we are asking for, that all outdoor production be considered agricultural. Let us explain:
  - Sen. Starr has noted on multiple occasions just how small 1,000 sq ft is - and how small the top tier of just over 37,000 sq ft is. These are all relatively small plots of plants - especially when compared to their existing analog in our current env, hemp. We do not feel that any of the outdoor tiers are large enough to materialize any of the concerns we've heard at a municipal level or seen with hemp in recent years.
  - Cary Giguere arrived and spoke about what he described as the "untenable mess" that farmers who are small cultivators would be faced with without this allowance given the different taxation status, land conservation status, status of ag buildings and infrastructure, etc.. We agree, and I'm glad to see the Agency make such an honest and powerful statement describing the situation the existing statute creates for small farmers - but this "untenable mess" will still exist for those farmers / cultivators at any of the other outdoor tiers, the next of which is 2,500 sq ft. The same rationale certainly supports granting all outdoor producers agricultural status; all of whom will be at a relatively small scale of production and impact.
  - We have also heard from Bryn here, and from Kyle Harris (both of the CCB) and others about concerns related to Act 250 (hence the app. 37,000 sq ft limit). If all outdoor were considered agricultural, a clear line would be drawn between Act 250 and the outdoor cultivation of this crop - as with other crops. We are talking

about less than an acre of production and associated infrastructure. With or without the threat of Act 250 - our coalition has advocated for no more than 1 acre of production allowed in licensure for outdoor cultivation. We do not think the CCB would raise the allowance above 1 acre if the threat of Act 250 were removed.

- All in all, we certainly support small outdoor cultivators being agricultural as this bill does - however, we think it's important and reasonable to make all outdoor production agricultural. And now that this is an ag focused bill, in the ag committee, we think this is the opportune moment to act in the best interest of the agricultural community and make this apply to all outdoor producers.
- If there is a reason to not support all outdoor producers being considered agricultural - in all sincerity, please let us know, because we have not yet been provided one other than the potential opposition of particular legislators.
- Wholesalers should not be allowed to buy / sell seed or live plants; only cultivators and nursery license holders. If anything, wholesalers should only be able to sell seed as opposed to live plants.
  - We'd like to hear more about why this is suggested. There is a nursery retail license in the Rules proposed by the CCB which draws the line between live plant sales and product sales (a normal retail license) - also allowing a normal retail establishment to sell live plants (which we are also not in support of). Our concern is that the nursery license itself will lose its inherent value if both normal retailers and normal wholesalers can do the same activities without that license. For now, we would suggest that live plant sales be only allowed by nurseries and cultivators. We feel this mimics the general agricultural sphere more broadly and protects the integrity of the nursery and cultivator licenses. This provides undue market privileges for wholesalers and retailers. Seed stock is one thing - live plants are another. Likewise, nursery licenses are accessible, and a wholesaler could relatively easily diversify into this license if they wished.
- Small cultivators or all outdoor cultivators should be able to sell plants / seeds *that they grew* to consumers (as well as other licensed cultivators as proposed by this bill)
  - The current bill only allows for sale to other licensed cultivators
  - Think a local seasonal plant sale: down the road from me, Cate Farm has a number of large plant sales every weekend for a month or so in the Spring which have become an important part of the farm's income. We are not advocating for an unregulated scale of sale or privileges cultivators - rather the same allowances that nurseries and currently other retail licenses are allowed in terms of sales to consumers - *and only the sale of the plants one produces on the farm (not purchased in) which is distinctly different and "lesser than" these other licenses.*
  - There would be scale appropriate regulations affecting the sales of live plants from cultivators to consumers: all plants and sales are still tracked and traced, IDing purchasers, limiting number of plants to those legally allowed, etc.
- "screened from public view" vs. enclosed and locked
  - Certainly preferable to have the "enclosed and locked" clause

- Heard concerns expressed in committee about how those not permitted to enter would be kept out given this more limited language. And there were a number of responses we think were helpful:
  - 1. Private property - there are other laws which limit people from entering property, in particular those properties prohibited by law and / or signage.
  - 2. Security precautions and requirements as required by law
  - 3. Very limited period of time when crop is potent, logistically hard to steal, etc.
- In Sears' bill S.186, it proposes to increase cultivation for caregivers to 6 mature / 12 immature; given the definition of home cultivator is in this bill, we suggest this as an opportune time to increase their allowances to the same numbers suggested in S.186 (at the very least for home cultivators producing outdoors):
  - The existing allowance is not realistic in terms of compliance, adherence to basic horticultural practice, and does not consider the challenges of cannabis cultivation in our climate for those cultivating outdoors. People routinely start a greater number of plants than they plan on bringing to harvest or even planting - they plan on crop loss due to weather or pest and disease, on culling poorly growing seedlings, dealing with seeds that don't germinate or clones which dampen off. Furthermore, the continued persecution of this scale of home grower is not a wise use of resources and based on articles we have seen - do not support police morale or people's relationship with law enforcement. Lastly, the VT number of allowable plants for home grow is very low compared with other States nationally.
- Direct Sales for Cultivators: This is a key ask and something which continues to not be addressed. On-farm, CSA, Buyers Club - something. We have heard support from some in the legislature such as Sen. White for something like a CSA at times.
  - Given the focus of this bill is agricultural, we will continue to advocate for the inclusion of some means of direct sales for cultivators of the *VERY PRODUCT THEY ARE PRODUCING*.
  - This issue has been misrepresented or misunderstood in the following way in particular (including recently in this committee): yes, cultivators can get a retail license like anybody else; but this is not what we are asking for - the ability to buy-in and sell other people's products to the consumer. We are asking for the allowance - as with other ag products - for cultivators to sell what they produce on their farms directly to consumers. We don't ask farmstands to comply with the same standards as a grocery store like Shaws; we don't ask those selling Raw Milk from their farm to meet the same standards as those selling commodity pasteurized milk; we don't ask those selling on-farm slaughtered poultry to meet the same standards as USDA inspection - and they aren't given the same allowances. From our perspective - a direct sales inclusion for cultivators is a fundamental aspect of an equitable marketplace and economy; and honors the very real relationship and expertise the cultivator has with the soil, plant, product and consumer.

- From a security perspective: farmers are already required to engage in seed to sale tracking, storage of product, securing product, financial tracking and approval of a financial plan, etc.
- We know that direct markets are important for producers and consumers: producers can be price makers vs. pricetakers outside of a wholesale market, they can develop relationships with consumers, they are the experts of their products. For consumers they can choose who they want to purchase from, access someone close to home, and have a greater diversity of options in terms of product and cost and whom to support. Furthermore, as we have heard in many testimonies, the existing VT cannabis economy is substantially made up of many small cultivators who have direct relationships with consumers. This is something this community values - and it is a statutory goal to bring this community into the regulated economy as much as is possible.
- Lastly, there are many different types of direct market access that could be allowed in a direct sales allowance or license which carry different degrees of risk, visibility, etc.: CSA / Buyers Club with planned delivery or pickup; direct from a store on farm purchasing; etc. We feel it is not only reasonable and secure, but also important for market equity to include at least some form of direct sales either inherent to particular types and scales of license; or as a retail license type itself at the onset of market roll out.