

1 TO THE HONORABLE SENATE:

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

7 Sec. 1. 7 V.S.A. § 861(19) is amended to read:

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

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

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

15 (C) ~~Contractors performing labor that does not include cannabis~~  
16 ~~cultivation, packaging, or processing. Contractors shall be accompanied by an~~  
17 ~~employee, agent, or owner of the cultivator when they are in areas where~~  
18 ~~cannabis is being grown, processed, packaged, or stored.~~

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 [Repealed.]~~

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 32  
15 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. § 977.

22 Sec. 3. 7 V.S.A. § 904 is amended to read:

1 § 904. CULTIVATOR LICENSE

2 (a) A cultivator licensed under this chapter may cultivate, process, package,  
3 label, transport, test, and sell cannabis to a licensed wholesaler, product  
4 manufacturer, retailer, integrated licensee, and dispensary and may purchase  
5 and sell cannabis seeds and immature cannabis plants to another licensed  
6 cultivator.

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

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

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

13 \* \* \*

14 Sec. 4. 7 V.S.A. § 905 is amended to read:

15 § 905. WHOLESALER LICENSE

16 A wholesaler licensed under this chapter may:

17 (1) purchase cannabis from a licensed cultivator and integrated licensee,  
18 and cannabis products from a licensed product manufacturer, integrated  
19 licensee, and dispensary; ~~and~~

20 (2) transport, process, package, and sell cannabis and cannabis products  
21 to a licensed product manufacturer, retailer, integrated licensee, and  
22 dispensary; and

1           (3) sell cannabis seeds or immature cannabis plants to a licensed  
2           cultivator.

3           Sec. 5. 18 V.S.A. § 4230e is amended to read:

4           § 4230e. CULTIVATION OF CANNABIS BY A PERSON 21 YEARS OF  
5           AGE OR OLDER

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

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

16          (3) Any cannabis harvested from the plants allowed pursuant to this  
17          subsection shall not count toward the one-ounce possession limit in section  
18          4230a of this title, provided it is stored in an indoor facility on the property  
19          where the cannabis was cultivated and reasonable precautions are taken to  
20          prevent unauthorized access to the cannabis.

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

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

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

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

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

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

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

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

12 **Sec. 6. CANNABIS CONTROL BOARD; REPORT ON CANNABIS**

13 **CULTIVATION AS FARMING**

14 If the federal government removes “marihuana” from the Schedule 1 list of  
15 controlled substances set forth in 21 U.S.C. § 812, the Executive Director of  
16 the Cannabis Control Board shall, after consultation with the Secretary of  
17 Agriculture, Food and Markets submit to the Senate Committees on Judiciary  
18 and on Agriculture and the House Committees on Judiciary and on Agriculture  
19 and Forestry a recommendation as to whether the regulation of the cultivation  
20 of cannabis should be transferred from the jurisdiction of the Cannabis Control  
21 Board to the jurisdiction of the Agency of Agriculture, Food and Markets. The  
22 recommendation shall include whether cannabis cultivation should be

1 regulated as “farming” and the estimated staff and budget necessary for the  
2 Secretary of Agriculture, Food and Markets to administer regulation.

3 Sec. 7. EFFECTIVE DATE

4 This act shall take effect on passage.

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7 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

9

Senator \_\_\_\_\_

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FOR THE COMMITTEE