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Senate Committee on Judiciary
Senator Dick Sears, Chair
Vermont General Assembly
115 State Street
Montpelier, VT 05633

Re: Miscellaneous Cannabis Establishment Procedures Bill (H.548)

Dear Chair Sears, and Honorable Members of the Senate Committee on Judiciary,

I write to offer suggestions for improvements to the Miscellaneous Cannabis Establishment Procedures bill (H.548) pending before your committee, intended to ensure that Vermont's adult-use cannabis marketplace operates fairly, successfully, and in alignment with the Cannabis Control Board's recommendations submitted to the General Assembly on October 15 and to the House on November 1, 2021, and in alignment the enabling statute's intent, Act 164 (2020) and Act 62 (2021). On behalf of Vermont's cannabis professionals, I ask you to restore the CCB's recommendations to reform the THC caps allowing the agency to regulate these products, reform the potency and packaging limits to 10mg per serving, up from 5mg per package, allowing for a total of 100mg per package, emphasize the importance of direct-to-consumer (DTC) access through the consideration of a limited online sales retailer supplemental license, allowing producers to sell directly to the public in a safe and regulated manner, and finally, to urge you to restore the nursery license that the CCB has originally recommended, which the House Committee on Ways and Means removed from the boards original market structure report.

After decades of professional cannabis cultivation and citizenry advocacy in Vermont, local cannabis professionals and I started Vermont Growers Association in 2019 to help establish and protect the adult-use marketplace. Similar to the Vermont Brewers



Association with the state's beer industry, we are the state's nonprofit trade association for local cannabis professionals, though we have growers in our name, our members include retailers, product makers, farmers, wholesalers, hash makers, cultivators, and more, we are the largest member-based nonprofit cannabis organization in the state and represent every corner of the emerging industry. In Vermont, we work side-by-side with our member organizations in the Vermont Cannabis Equity Coalition, which includes NOFA-VT, Vermont Racial Justice Alliance, Justice For All, and Rural Vermont, the founder of TraceVT, and allies in the Vermont Cannabis Nurses Association and Green Mountain Patients Alliance. More recently, we've also become active at the federal level joining over a dozen other states in forming an interstate craft cannabis coalition, it is important for Vermont, and states like Vermont, to be prepared for federal legalization, to protect the small business markets that exist, and to have a voice in the legislative process in Washington DC that will impact our markets.

THC CAPS

When Vermont enacted Act 164 in October of 2020 it became the only state in the country to include THC caps in an adult-use cannabis marketplace, limiting solid cannabis concentrates to 60% THC and cannabis flower to 30% THC. These caps, in effect, continue cannabis prohibition by forbidding these products from being regulated by the Cannabis Control Board.

Since then, the Cannabis Control Board's November 1, 2021 report to the General Assembly recommends reforming the THC caps in section § 868. PROHIBITED PRODUCTS by allowing the Board to regulate solid concentrates that test over 60% THC and allowing for remediation or redirection of flower that test over 30% THC in the interest of public health. This recommendation from the CCB was in the original version of bill H.548, then it was removed in the House, and we urge you today to restore this absolutely vital language back into the bill. Vermont will not have a viable nor competitive adult-use cannabis market with these arbitrary THC caps. No other state adult-use market has THC caps, keeping them in place will ensure Vermont will have a less competitive market and they will keep hundreds of local small businesses in the unregulated market.



The issue of THC caps is not a public health concern, that is, keeping the caps in place will not significantly contribute in any way to improving public health in an adult-use market, instead, THC caps will bring dire consequential implications to the market by severely limited the selection of regulated products for consumers and prevent hundreds of local small businesses from participating. Rather than improving public health, the THC caps will ensure a robust unregulated market continues for these prohibited products. Transitioning unregulated businesses into a legal market is a stated object of the enabling statute. This is exactly why the CCB decided to recommend to lawmakers that they are allowed to regulate solid concentrates that test over 60% THC and provide producers the opportunity to remediate or redirect cannabis flower that tests over 30% THC, and we agree.

Discussions about cannabis concentrates can seem abstract, so let's say Vermont decides to prohibit beer with 4% alcohol content – what would happen? First, many people would get very upset, but, two things would immediately happen: first, products would be pulled off the shelves. Many varieties of beer would no longer be available. Customers seeking prohibited beers would be driven into an unregulated market or to markets in other legal states. That means our market's competitiveness would sharply drop and so would the revenue the state collects. Same with cannabis. With the THC caps in place, we are saying we accept a severely limited product selection for consumers. Again, no other state has THC caps, so Vermont will not be able to compete with neighboring states. Back to the beer analogy, if 4% beer was prohibited in Vermont, the breweries producing that beer would be faced with very difficult decisions. Again, same thing with cannabis. With the THC caps in place, we are telling hundreds of local small businesses they are not welcome in the regulated market and to continue operating underground.

Consumer and industry support is behind reforming the THC caps. Vermont Growers Association has petitions to reform the THC caps with over 500 Vermonters' names and over 140 Vermont businesses added – this issue is an important issue to consumers and businesses alike.



PACKAGING AND POTENCY LIMITS ON EDIBLES

The overbearing restrictions on cannabis products, such as edibles, laid out in Act 164, particularly with potency and packaging, create many undue burdens and obstacles for consumers and producers alike. While consuming 5mg THC may be enough for some consumers, most cannabis consumers are used to the industry average of 10mg THC per serving. Vermont's minimal dosage limits are the lowest in the country, ensuring that consumers will have to pay far more for an effective dosage than they would in other legal states or even in the illicit market. Mandating that producers include no more than 5mg per serving will not only exacerbate the waste stream issue, but will also stifle innovation and prevent countless larger format product concepts from reaching the market, and in turn, plenty of great local cottage businesses from transitioning into the regulated market. We urge Vermont to adopt the THC serving size standards most other states have embraced, which is 10mg per serving, up from 5mg per serving, in Act 164, and allow a total of 100mg per package.

LIMITED ONLINE SALES SUPPLEMENTAL LICENSE

Direct-to-consumer (DTC) access is an essential market component for any small business or producers across the country, no matter the industry, such as hemp, wine, or beer. Vermont farmers and small producers need some form of direct-to-consumer access in the first year of the market rollout. A limited retail license can provide a degree of market equity and agency for cultivators and product manufacturers, balancing the disproportionate market influence of dispensaries, wholesalers, and retailers.

The currently proposed adult-use market structure will privilege dispensaries and retailers as the only direct access to consumers, granting them an unchecked and disproportionate ability to set prices for consumers, cultivators, and manufacturers, it allows them to sell a greater diversity of products (such as live plants and seeds), and risks creating a market that provides them disproportionate market power to determine which products will be available to consumers (and therefore which products there will be demand for from producers and manufacturers). A form of direct-to-consumer access will provide this needed balance.



NURSERY LICENSE

The Cannabis Control Board recommended a nursery license in its October 15 market structure report to the General Assembly, then the House Committee on Ways and Means removed it in committee, so we're advocating to restore it. A nursery license is vital for market rollout to help provide a regulated point of access for living plants for licensed cultivators and allow cultivators to diversify their product line. The ability to buy, sell and grow living plants should not be given to a retailer without at least offering a separate nursery license within the market. Allowing retailers to hold too much market access will create an imbalance in the market structure and impact viability and fairness.

In addition to advocating for a nursery license, which is the allowance to buy, sell and grow living plants, we maintain that licensed cultivators should be allowed to sell their living plants and seeds to other licensed cultivators and directly to the public. The inherent value of a nursery license comes from the ability to offer many different brands and product varieties to consumers at one location, the ability for cultivators to have direct-to-consumer access will not conflict with retail establishments, it complements them and fosters a vibrant legal cannabis market.

Thank you for your continued efforts to ensure a just and equitable adult-use cannabis marketplace for Vermont. I am available to the Committee and each of its members to answer questions regarding my testimony or any other cannabis-related issues.

Thank you,

Geoffrey Pizzutillo
*Executive Director and Cofounder,
Vermont Growers Association*

Cc: Brynn Hare, Executive Director, Cannabis Control Board