

No. 166. An act relating to miscellaneous cannabis amendments.

(H.612)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 6 V.S.A. § 562(4) is amended to read:

(4)(A) “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, which 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.

(B) Notwithstanding subdivision (A) of this subdivision (4), “hemp products” and “hemp-infused products” do not include any substance, manufacturing intermediary, or product that:

(i) is prohibited or deemed a regulated cannabis product by administrative rule of the Cannabis Control Board; or

(ii) contains more than 0.3 percent total tetrahydrocannabinol on a dry-weight basis.

(C) A hemp-derived product or substance that is excluded from the definition of “hemp products” or “hemp-infused products” pursuant to subdivision (B) of this subdivision (4) shall be considered a cannabis product

as defined by 7 V.S.A. § 831(3); provided, however, that a person duly licensed or registered by the Cannabis Control Board lawfully may possess such products in conformity with the person's license or hemp processor registration.

Sec. 2. [Deleted.]

Sec. 2a. 7 V.S.A. § 864 is amended to read:

§ 864. ADVERTISING

* * *

(b) A cannabis establishment advertisement shall not contain any statement or illustration that:

- (1) is deceptive, false, or misleading;
- (2) promotes overconsumption;
- (3) represents that the use of cannabis has curative effects;
- (4) ~~offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed;~~ [Repealed.]
- (5) offers free samples of cannabis or cannabis products;
- (6) depicts a person under 21 years of age consuming cannabis or cannabis products; or
- (7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

* * *

Sec. 3. 7 V.S.A. § 868 is amended to read:

§ 868. PROHIBITED PRODUCTS

(a) ~~The~~ Except as provided in section 907 of this title relating to a retailer with a medical endorsement, 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) 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;

(3) cannabis products that contain delta-9 tetrahydrocannabinol and nicotine or alcoholic beverages; and

(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 and in section 907 of this title relating to a retailer with a medical endorsement, 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. 4. 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)–(8) of this subsection.

(1) Rules concerning any cannabis establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably

related to the operation of a cannabis establishment, including:

(i) a requirement to submit an operating plan, which shall include information concerning:

(I) the type of business organization, the identity of its controlling owners and principals, and the identity of the controlling owners and principals of its affiliates; and

(II) the sources, amount, and nature of its capital, assets, and financing; the identity of its financiers; and the identity of the controlling owners and principals of its financiers;

(ii) a requirement to file an amendment to its operating plan in the event of a significant change in organization, operation, or financing; and

(iii) the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to section 883 of this title;

(C) oversight requirements, including provisions to ensure that a licensed establishment complies with State and federal regulatory requirements governing insurance, securities, workers' compensation, unemployment insurance, and occupational health and safety;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements;

(G) security requirements, including any appropriate lighting, physical security, video, and alarm requirements;

(H) health and safety requirements;

(I) regulation of additives to cannabis and cannabis products, including 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;

(J) procedures for seed-to-sale traceability of cannabis, including any requirements for tracking software;

(K) regulation of the storage and transportation of cannabis;

(L) sanitary requirements;

(M) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the cannabis establishment's license;

(N) procedures for suspension and revocation of a license;

(O) requirements for banking and financial transactions, including provisions to ensure that the Board, the Department of Financial Regulation, and financial institutions have access to relevant information concerning licensed establishments to comply with State and federal regulatory requirements;

(P) disclosure or eligibility requirements for a financier, its owners and principals, and its affiliates, which may include:

(i) requirements to disclose information to a licensed establishment, the Board, or the Department of Financial Regulation;

(ii) a minimum age requirement and a requirement to conduct a background check for natural persons;

(iii) requirements to ensure that a financier complies with applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers; and

(iv) any other requirements, conditions, or limitations on the type or amount of loans or capital investments made by a financier or its affiliates, which the Board, in consultation with the Department of Financial Regulation, determines are necessary to protect the public health, safety, and general welfare;

(Q) policies and procedures for conducting outreach and promoting participation in the regulated cannabis market by diverse groups of individuals,

including those who have been disproportionately harmed by cannabis prohibition;

(R) advertising and marketing; and

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

(2)(A) Rules concerning cultivators shall include:

(i) creation of a tiered system of licensing based on the plant canopy size of the cultivation operation or plant count for breeding stock;

(ii) pesticides or classes of pesticides that may be used by cultivators, provided that any rules adopted under this subdivision shall comply with and shall be at least as stringent as the Agency of Agriculture, Food and Markets' Vermont Pesticide Control Regulations;

(iii) standards for indoor cultivation of cannabis;

(iv) procedures and standards for testing cannabis for contaminants, potency, and quality assurance and control;

(v) labeling requirements for cannabis sold to retailers and integrated licensees, including health warnings developed in consultation with the Department of Health;

(vi) regulation of visits to the establishments, including the number of visitors allowed at any one time and record keeping concerning visitors; ~~and~~

(vii) facility inspection requirements and procedures; and

(viii) performance standards that would allow the Board to relegate a cultivator into a lower tier or expand into a tier that may not be otherwise available to new applicants.

* * *

(5) Rules concerning retailers shall include:

(A) requirements for proper verification of age of customers;

(B) restrictions that cannabis shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the cannabis;

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

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

(E) requirements and procedures for facility inspection to occur at least annually;

(F) location or siting requirements that increase the geographic distribution of new cannabis retail establishments based on population and market needs; and

(G) requirements for a medical-use endorsement, including rules regarding:

(i) protection of patient privacy and confidential records;

(ii) enhanced training and educational requirements for employees who interact with patients;

(iii) segregation of cannabis products that are otherwise prohibited for sale to nonmedical customers pursuant to subdivisions 868(a)(1) and (b)(1) of this title;

(iv) record-keeping;

(v) delivery;

(vi) access for patients under 21 years of age; and

(vii) health and safety requirements.

* * *

Sec. 5. 7 V.S.A. § 907 is amended to read:

§ 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase cannabis and cannabis products from a licensed cannabis establishment; and

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

(b) In a single transaction, a retailer may provide one ounce of cannabis or the equivalent in cannabis products, or a combination thereof, to a person 21 years of age or older upon verification of a valid government-issued photograph identification card.

(c)(1) Packaging shall include:

- (A) the strain and variety of cannabis contained;
- (B) the potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving;
- (C) a “produced on” date reflecting the date that the cultivator finished producing the cannabis;
- (D) appropriate warnings as prescribed by the Board in rule; and
- (E) any additional requirements contained in rules adopted by the Board in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(d) A retailer shall display a safety information flyer at the point of purchase and offer a customer a copy of the flyer with each purchase. A retailer shall inform the customer that if the customer elects not to receive the flyer, the information contained in the flyer is available on the website for the Board. The flyer shall be developed by the Board in consultation with the Department of Health, posted on the Board’s website, and supplied to the retailer free of charge. At a minimum, the flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for cannabis products to take effect, the risks of driving under the influence of cannabis, the potential health risks of cannabis use, the symptoms of problematic usage, how to receive help for cannabis abuse, and a warning that cannabis possession is illegal under federal law.

(e) Delivery of cannabis to customers is prohibited, except as provided in subsection (f) of this section.

(f) A retailer may obtain a medical-use endorsement in compliance with rules adopted by the Board and the endorsement shall permit the retailer to:

(1) sell tax-free cannabis and cannabis products to registered patients directly or through their registered caregivers:

(A) that are otherwise prohibited for sale to nonmedical customers pursuant to subdivisions 868(a)(1) and (b)(1) of this title;

(B) that are otherwise prohibited for sale to nonmedical customers if they are determined to be appropriate for use by a registered patient as determined by the Board through rulemaking; and

(C) quantities in excess of the single transaction limit in subsection (b) of this section provided they do not exceed the per patient possession limit in section 952 of this title .

(2) deliver cannabis and cannabis products to registered patients directly or through their registered caregivers; and

(3) allow registered patients to purchase directly or through their registered caregivers cannabis and cannabis products without leaving their vehicles.

Sec. 6. 7 V.S.A. § 910 is amended to read:

§ 910. CANNABIS ESTABLISHMENT FEE SCHEDULE

The following fees shall apply to each person or product licensed by the Board:

* * *

(4) Retailers.

(A) Retailers that sell cannabis and cannabis products to consumers shall be assessed an annual licensing fee of \$10,000.00.

(B) Retailers that include a medical-use endorsement shall be assessed an annual licensing fee of \$10,250.00.

* * *

Sec. 7. 7 V.S.A. § 951(8) is amended to read:

(8) “Qualifying medical condition” means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, Crohn’s disease, Parkinson’s disease, post-traumatic stress disorder, ulcerative colitis, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

(B) a disease or medical condition or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: cachexia or wasting syndrome, chronic pain, severe nausea, or seizures.

Sec. 7a. 7 V.S.A. § 952(e) is added to read:

(e)(1) A person who is 21 years of age or older who applies to be a registered patient shall provide the Board with a Health Care Professional Verification Form as required pursuant to rules adopted by the Board.

(2) A person who is under 21 years of age who applies to be a registered patient shall provide the Board with a Health Care Professional Verification Form from a health care professional who has a treating or consulting relationship of not less than three months' duration with the applicant, in the course of which the health care professional has completed a full assessment of the applicant's medical history and current medical condition, including a personal physical examination. The three-month requirement shall not apply if:

(A) an applicant has been diagnosed with:

(i) a terminal illness;

(ii) cancer; or

(iii) acquired immune deficiency syndrome;

(B) an applicant is currently under hospice care;

(C) an applicant had been diagnosed with a qualifying medical condition by a health care professional in another jurisdiction in which the applicant had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as permitted by subdivision 951(5)(B) of this title, and the new health care professional has completed a full assessment of the

patient's medical history and current medical condition, including a personal physical examination;

(D) a patient who is already on the Registry changes health care professionals three months or less prior to the renewal of the patient's registration, provided the patient's new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

(E) an applicant is referred by the patient's health care professional to another health care professional who has completed advanced education and clinical training in specific qualifying medical conditions, and that health care professional conducts a full assessment of the applicant's medical history and current medical condition, including a personal physical examination; or

(F) an applicant's qualifying medical condition is of recent or sudden onset.

Sec. 8. 7 V.S.A. § 955 is amended to read:

§ 955. REGISTRATION; FEES

(a) A registration card shall expire ~~one year after the date of issuance for patients with a qualifying medical condition of chronic pain and the caregivers who serve those patients. For all other patients and the caregivers who serve those patients,~~ a registration card shall expire three years after the date of issuance. A patient or caregiver may renew the card according to protocols adopted by the Board.

(b) The Board shall charge and collect a \$50.00 registration and renewal fee for patients and caregivers. Fees shall be deposited in the Cannabis Regulation Fund as provided in section 845 of this title.

Sec. 9. 7 V.S.A. § 977 is amended to read:

§ 977. FEES

(a) The Board shall charge and collect the following fees for dispensaries:

(1) a one-time ~~\$2,500.00~~ \$1,000.00 application fee;

(2) a ~~\$20,000.00 registration fee for the first year of operation;~~

~~(3) an annual renewal fee of \$25,000.00 for a subsequent year of operation~~ \$5,000.00; and

~~(4)~~(3) an annual Registry identification or renewal card fee of \$50.00 to be paid by the dispensary for each owner, principal, financier, and employee of the dispensary.

(b) Fees shall be deposited in the Cannabis Regulation Fund as provided in section 845 of this title.

Sec. 10. 7 V.S.A. § 978(f) is amended to read:

(f) ~~The Board may charge and collect fees for review of advertisements.~~

[Repealed.]

Sec. 11. 18 V.S.A. § 4230(d) is amended to read:

(d) ~~Cannabis-infused~~ Cannabis-infused products. Only the portion of a cannabis-infused product that is attributable to cannabis shall count toward the possession limits of this section. The weight of cannabis that is attributable to

cannabis-infused products shall be determined according to methods set forth in rule by the ~~Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis)~~ Cannabis Control Board.

Sec. 11a. CANNABIS CONTROL BOARD REPORTING; MEDICAL

CANNABIS REGISTRY

(a) The Cannabis Control Board shall work in consultation with the Vermont Department of Health, the Vermont Medical Society, the Green Mountain Patients' Alliance, the Cannabis Retailers Association of Vermont, and other interested parties to assess the efficacy of the Medical Cannabis Program in serving registered and prospective patients. The assessment shall include recommendations regarding:

(1) improvements to the process of evaluating and approving new qualifying conditions;

(2) improvements to how the use of cannabis is communicated to patients and patients' providers; and

(3) appropriate regulations regarding electronic or battery-powered devices that contain or are designed to deliver cannabis into the body through the inhalation of vapor.

(b) The Board shall provide recommendations regarding the Medical Cannabis Registry to the Senate Committee on Health and Welfare and the House Committee on Human Services on or before November 15, 2024.

Sec. 12. 20 V.S.A. § 2730(b) is amended to read:

(b) The term “public building” does not include:

* * *

(5) A building that is used in the outdoor cultivation of cannabis by a person licensed pursuant to 7 V.S.A. chapter 33 in accordance with such chapter and related rules with fewer than the equivalent of 10 full-time employees who are not family members and who do not work more than 26 weeks a year.

Sec. 13. 32 V.S.A. § 7902 is amended to read:

§ 7902. CANNABIS EXCISE TAX

(a) There is imposed a cannabis excise tax equal to 14 percent of the sales price of each retail sale in this State of cannabis and cannabis products, including food or beverages.

(b) The tax imposed by this section shall be paid by the purchaser to the retailer or integrated licensee. Each retailer or integrated licensee shall collect from the purchaser the full amount of the tax payable on each taxable sale.

(c) The tax imposed by this section is separate from and in addition to the general sales and use tax imposed by chapter 233 of this title. The tax imposed by this section shall not be part of the sales price to which the general sales and use tax applies. The cannabis excise tax shall be separately itemized from the general sales and use tax on the receipt provided to the purchaser.

(d) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary as authorized under 7 V.S.A. chapter 37 or any retailer licensed with a medical-use endorsement as authorized under 7 V.S.A. chapter 33, provided that the cannabis or cannabis product is sold only to registered ~~qualifying~~ patients directly or through their registered caregivers. A retailer that sells cannabis or cannabis products that are exempt from tax pursuant to this subdivision shall retain information pertaining to each exempt transaction as required by the Commissioner of Taxes.

Sec. 14. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title:

* * *

(55) Cannabis and cannabis products, as defined under 7 V.S.A. § 831, sold by any dispensary as authorized under 7 V.S.A. chapter 37 or any retailer licensed with a medical-use endorsement as authorized under 7 V.S.A. chapter 33, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers. A retailer

that sells cannabis or cannabis products that are exempt from tax pursuant to this subdivision shall retain information pertaining to each exempt transaction as required by the Commissioner of Taxes.

* * *

Sec. 15. TRANSFER AND APPROPRIATION

Notwithstanding 7 V.S.A. § 845(c), in fiscal year 2025:

(1) \$500,000.00 is transferred from the Cannabis Regulation Fund established pursuant to 7 V.S.A. § 845 to the Cannabis Business Development Fund established pursuant to 7 V.S.A. § 987; and

(2) \$500,000.00 is appropriated from the Cannabis Business 19 Development Fund to the Agency of Commerce and Community Development to fund technical assistance and provide loans and grants pursuant to 7 V.S.A. § 987.

Sec. 15a. CANNABIS BUSINESS DEVELOPMENT FUND; CANNABIS
SOCIAL EQUITY WORKING GROUP

The Cannabis Control Board shall work in consultation with the Vermont Housing and Conservation Board, the Vermont Land Access and Opportunity Board, the Vermont Racial Justice Alliance, the Office of Racial Equity, and the Agency of Commerce and Community Development for purpose of making recommendations to the General Assembly regarding a percentage of cannabis excise tax monies that should be appropriated to the Cannabis Business Development Fund for uses as provided pursuant to 7 V.S.A. § 987.

The Cannabis Control Board shall incorporate the recommendations into the Cannabis Social Equity Programs report required pursuant to 7 V.S.A. § 989.

Sec. 16. 7 V.S.A. § 869 is amended to read:

§ 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND

USE STANDARDS; REGULATION OF CULTIVATION

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

* * *

(f) Notwithstanding subsection (a) of this section, a cultivator licensed under this chapter who initiates cultivation of cannabis outdoors on a parcel of land shall:

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

(2) not be regulated by a municipal bylaw adopted under 24 V.S.A. chapter 117 in the same manner that Required Agricultural Practices are not regulated by a municipal bylaw under 24 V.S.A. § 4413(d)(1)(A), except that there shall be the following minimum setback distance between the cannabis plant canopy and a property boundary or edge of a highway:

(i) if the cultivation occurs in a cannabis cultivation district adopted by a municipality pursuant to 24 V.S.A. § 4414a, the setback shall be not larger than 25 feet as established by the municipality;

(ii) if the cultivation occurs outside of a cannabis cultivation district adopted by a municipality pursuant to 24 V.S.A. § 4414a or no cannabis cultivation district has been adopted by the municipality, the setback shall be not larger than 50 feet as established by the municipality; and

(iii) if a municipality does not have zoning, the setback shall be 10 feet;

(3) be eligible to enroll in the Use Value Appraisal Program under 32 V.S.A. chapter 124 for the cultivation of cannabis;

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

(5) be entitled to the rebuttable presumption that cultivation does not constitute a nuisance under 12 V.S.A. chapter 195 in the same manner as “agricultural activities” are entitled to the rebuttable presumption, provided that, notwithstanding 12 V.S.A. § 5753(a)(1)(A), the cultivation is complying with subsections (b) and (d) of this section.

Sec. 17. 24 V.S.A. § 4414a is added to read:

§ 4414a. CANNABIS CULTIVATION DISTRICT

A municipality, after consultation with the municipal cannabis control commission, if one exists, may adopt a bylaw identifying cannabis cultivation

districts where the outdoor cultivation of cannabis is preferred within the municipality. Cultivation of cannabis within a cannabis cultivation district shall be presumed not to result in an undue effect on the character of the area affected. The adoption of a cannabis cultivation district shall not have the effect of prohibiting cultivation of outdoor cannabis in the municipality.

Sec. 18. CANNABIS CONTROL BOARD REPORT; SITING OF
OUTDOOR CANNABIS CULTIVATION

(a) On or before December 15, 2024, the Cannabis Control Board shall submit to the Senate Committees on Government Operations and on Economic Development, Housing and General Affairs and the House Committees on Government Operations and Military Affairs and on Commerce and Economic Development a report regarding the siting and licensing of outdoor cannabis cultivation. The report shall:

(1) summarize the current impact of outdoor cultivation on local municipalities;

(2) summarize the impact of establishing various siting requirements to existing licensed outdoor cultivators;

(3) address whether and how to authorize municipalities to establish local cultivation districts;

(4) address whether and how outdoor cultivation of cannabis should be entitled to the rebuttable presumption that cultivation does not constitute a nuisance under 12 V.S.A. chapter 195; and

(5) recommend whether local cannabis control commissions established pursuant to 7 V.S.A. chapter 33 should be granted additional authority to regulate outdoor cannabis cultivators.

(b) The Cannabis Control Board shall consult with the Vermont League of Cities and Towns, the Cannabis Equity Coalition, the Vermont Medical Society, the Cannabis Retailers Association of Vermont, and other interested stakeholders in developing the report required under subsection (a) of this section.

(c) As part of the report required under subsection (a) of this section, the Cannabis Control Board shall address the impact of modifying the law governing cannabis advertising.

Sec. 19. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 6, 7 V.S.A. § 910, shall take effect on July 1, 2025; and

(2) Sec. 16 (setbacks for cannabis cultivation) shall take effect on January 1, 2025.

Date on which Governor allowed bill to become law without his signature:

June 10, 2024