

To: The House Committee on Government Operations and Military Affairs
Re: Bill S.278, Support for Cultivator Direct to Consumer Sales

Hello,

I would like to request that my written testimony, below, be posted to the committee page during the hearing when the committee takes up Bill S.278. I would be more than willing to join you remotely to provide personal testimony if that would be preferred.

To start I would like to highlight the priorities of Vermont Statute 7 V.S.A. § 904a (Small Cultivators) when it was enacted:

(a) It is the intent of the General Assembly to **move as much of the illegal cannabis market as possible into the regulated market for the purposes of consumer protection and public safety.** It is also the intent of the General Assembly to **encourage participation in the regulated cannabis market by small, local farmers. In furtherance of these goals, the Board shall consider policies to promote small cultivators as defined in section 861 of this title.**

(b) The application for small cultivator licenses shall be prioritized over larger cultivation licenses during the initial application period.

(c) In accordance with subdivision 881(a)(2)(B) of this chapter, **the Board shall consider the different needs and risks of small cultivators when adopting rules and shall make an exception or accommodation to such rules for cultivators of this size where appropriate,** provided that the rules shall not provide for an exception or accommodation to the requirements of section 869 of this title.

(d) Upon licensing, a small cultivator may sell cannabis to a licensed dispensary at any time for sale to patients and caregivers pursuant to the dispensary license or to the public pursuant to an integrated license, including the time period before retail sales are permitted for licensed cannabis retailers. (Added 2019, No. 164 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

Please keep this language in mind when considering altering bill S.278 in favor of entities against seeing small cultivators succeed. One of the primary focuses of legalization was to transition small, illicit, growers into the legal market. However, forcing small farmers to adapt to a retail centric, wholesale only, corporate, over regulated, model is not working. More than a hundred cultivators have relinquished their licenses since the start of the recreational market in 2022 and those remaining are struggling. With nearly half of Vermont retailers now vertically integrated (growing their own flower), small growers have even less shelf space to compete

for. There have been reports of vertically integrated retailers “trading shelf space” further pushing out small cultivators.

Retailers that are against cultivators having access to Direct Sales believe that they themselves would lose sales if this is enacted which is an assumption based on fear and greed rather than evidence. If you do an internet search to see if farmers offering food directly to their customer base hurts the grocery industry, you’ll find farmers who sell direct, “pose no threat to large supermarket chains. While offering similar products, they operate on a different scale, focusing on local, seasonal goods, whereas grocery stores prioritize consistency, convenience, and bulk supply. Their coexistence actually supports local economies.”

One retailer commented in their public statement to the committee that “the state is effectively giving those businesses access to a special sales channel that others do not have.” He is partially correct in that, yes, there is a special sales channel that not everyone has access to and that is how our current system is set up with retail centric sales. The only way I can sell what I grow is at wholesale price to another licensee. I have no other “legal” options. In the illicit market I can sell to any individual. So, we are forced to choose one or the other when what we need is access to both in order to survive. We did not have retail stores in the illicit market. We had growers and their customers. The structure of the legal market, which was intended to support small cultivators, has completely severed the relationship between cultivators and their customers, severed the ability to sell their own products at retail pricing to generate additional revenue to fill the financial gap left by retailers dictating what the wholesale market price should be while they markup retail pricing, in some cases, well over 100%.

The same commenter added “the Legislature should focus on stabilizing the existing market and making sure the current framework is working for licensed operators, municipalities, and consumers.” I couldn’t agree more! That is exactly what the direct sales section of S.278 will do. It will help small cultivators bring what otherwise would be illicit sales into the legal market. It would allow us to help generate additional revenue to help keep our businesses afloat and help generate additional tax revenue for the state of Vermont.

I am often approached by people in my community asking if they can purchase my products and more often than not, I do not have a place I can send them. The one retailer I work with locally will purchase flower in bulk, but only purchases a ½ pound at a time, normally only carries one strain at a time, will not carry my prerolls, and sometimes months will go by after my flower has sold out before they restock it. I had quite a few requests for one preroll in particular from people in my community, I asked the retailer to stock it so I could send them customers, but I was ignored. If a retailer does not want the sales I am trying to send them, I will gladly take them! But, it’s up to you - the legislators, whether or not I can legally do that. There is only one

answer that makes any logical sense: “Move as much of the illegal cannabis market as possible into the regulated market” and “encourage participation in the regulated cannabis market by small, local farmers” by including Direct to Consumer Sales for Small Cultivators in bill S.278.

Thank you,

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