

Rural Vermont / Vermont Cannabis Equity Coalition
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Context of our advocacy for agricultural status for cannabis:

- For Rural VT, we began working on hemp in 2008, as you saw in my slides on Wednesday. Hemp is regulated as agriculture now. It has been Rural VT's position since pre-adult use regulation, that if it is going to be regulated, among other things, it needs to be accessible for farmers and community members to participate and succeed in its economy: nationwide both adult use cannabis production and traditional farming are economically marginalized, this is an opportunity for VT farmers and aspiring farmers.
- Federal law says we can't regulate as ag, VT law says as soon as federal law changes it will be treated that way in VT (we have this trajectory already acknowledged). We know that farmers cannot grow adult use cannabis on land in the VT Land Trust, or land under contract with NRCS or the access of which is funded by federal programs, and that land is in general very hard to afford. We also know that there are high costs of basic administration - banking, insurance, regulatory compliance - which are a significant barrier for many additionally.
- We are not saying that cannabis and tomatoes are the same thing or should be regulated the same ways; but we are saying that their cultivation, and how the land it is grown on and the farmers themselves are treated is appropriate to regulate in a very similar way.
 - Some of the critical differences include many of the security and site requirements for cultivators which are tiered in their intensity based on the scale of cultivation.
- Important legislative and executive branch intentions to keep in mind:
 - Accessible for small farmers
 - Bring legacy or "illicit" market into regulated market
 - This is a critical issue for both of these intentions
- We have worked with members of the House Ag committee and members of the Senate to advance our own language in bills in the past; and worked with this committee and Sen. Starr 2 years ago to enumerate a number of aspects of ag status including:
 - **Act No. 158 (S.188). An act relating to regulating licensed small cannabis cultivation as farming**
 - The smallest tier of outdoor cultivation license (1,000 sq ft / 125 plants) "shall be regulated in the same manner as "farming" and not as "development" on the tract of land where cultivation occurs.." including: access to current use status (if already enrolled), exemptions from municipal bylaw, Act 250 and similar development laws, and exemption from retail sales tax.

- H.270, 2023 (Act 65): Extending the benefits that have been available to small cultivators to all outdoor cultivators, allowing such cultivators to enroll in the Use Value Appraisal Program regardless of whether the land was previously enrolled prior to the cultivation of cannabis, and entitling such cultivators to a rebuttable presumption that cultivation does not constitute a nuisance under law in the same manner as “agricultural activities.”
- 2024, H.612:
 - What began as a separate bill (H.549) aimed at eliminating all outdoor cultivation in areas of a particular density, or on public water or sewage, shifted into provisions in H.612 creating an allowance for “preferred cultivation districts” in municipalities, and minimum and maximum setbacks.
 - This bill, and the entirety of this debate, has centered on one particular operator and conflict in Essex, Jct. There was no mediation attempted - instead there have been lawsuits and legislation. Legislation which will ultimately affect many more licensed cultivators than him and the livelihoods they have invested in or would like to, and which will not resolve the issues it claims to set out to address.
 - This is not to say that there are not people who feel adversely affected by their proximity to a cannabis cultivator or another type of farm or part of a neighbors property or business or activities - rather that this remains the only one which has been brought to the fore related to cannabis and the creation of this law. The data from municipalities in response to the CCB survey reflects this lack of conflict more broadly. What threshold of harm or “nuisance” and what pervasiveness must it have to demand a dramatically shifted regulatory response? It is our position that this law is inappropriate and it is best for VT to return to regulating outdoor cultivation in the same manner as agriculture relating to municipal oversight.
 - I did make the time to visit this site in the middle of the cannabis harvest season to assess the situation myself.
 - This brings us to the working group

Assessing the Mandates of the Outdoor Siting and Advertising Working Group Report related to outdoor siting:

- 1. SUMMARIZE THE CURRENT IMPACT OF OUTDOOR CULTIVATION ON LOCAL MUNICIPALITIES
 - Nearly 90% of municipalities indicated no issues with outdoor cultivators, and only 2% indicated significant issues.

- We see very little evidence that outdoors cultivation is having much negative impact on municipalities at all - and would also like to recognize that we need to address the beneficial impacts related to small business creation in general.
 - From our perspective, this law has not made it easier for municipalities and cultivators to understand how to regulate and how they are regulated - it has made it far more difficult and will result in a patchwork of different regulatory approaches around the state.
 - Testimony from a municipality, Williston, to how easy it is to understand how to regulate outdoor cultivation when it was as ag; and his appreciation for VAAFm being the determinant of regulation
 - Ben Veradi, VLS, testified that there is no evidence from any jurisdiction that has legalized that proximity to cannabis producers affects property values; and he supports outdoor cannabis being regulated as agriculture
- 2. SUMMARIZE THE IMPACT OF ESTABLISHING VARIOUS SITING REQUIREMENTS TO EXISTING LICENSED OUTDOOR CULTIVATORS
- I appreciate what the CCB has said in its report, and would add that aside from the existing cultivators impacted - there are the potential future cultivators to consider; and how a law like this affects the accessibility and affordability of participating as a regulated outdoor cultivator.
 - It is unreasonable for the cultivators who are about to be put out of business based on these setbacks alone to face this economic hardship based on the impact assessment on municipalities. Beyond these businesses and those we don't know about yet, we have been hearing about outdoor cultivators facing municipal overreach for many years - and we brought some of these stories to committee - and see ample reason to provide these cultivators with the same status agriculture does in relationship to municipal oversight as they have faced discrimination based on what they cultivate. Currently we have an outdoor producer being told that their high tunnels / greenhouses do not count under the Current Use program despite these structures being clearly agricultural.
 - People have the land they have to produce on - whatever it is you are farming. Accessing appropriate land for expanding a farm or starting a farm is not easy, and it is more difficult when it is uniquely regulated as cannabis is cutting off many avenues for supporting access. Agriculture doesn't just happen in areas traditionally defined as rural, and even these areas cultivators will be affected by these setbacks regardless of relevance to their particular community.
 - Setbacks are unreasonable and ineffective at controlling smell

- Testimony from Williston about ranges of setbacks they use for different types of development - rarely greater than 10-15' on the side and rear of yards, and even closer with features like berms or hedges.
 - Setbacks do not affect smell. This was mentioned by multiple people in the working group. What this means, is that if the concern is smell - we need to consider that setbacks are not an appropriate response.
- 3. ADDRESS WHETHER AND HOW TO AUTHORIZE MUNICIPALITIES TO ESTABLISH LOCAL CULTIVATION DISTRICTS.
 - We do not feel that municipalities should be authorized to have local cultivation districts and that outdoor cultivation should be regulated as agriculture in relationship to municipal oversight
 - We feel that the CCB has overemphasized the degree to which municipalities have asked for additional oversight. Only 1 municipality has indicated they will establish a cultivation district, 90% of municipalities indicated no issues with outdoor cultivators, and only 2% indicated significant issues. The municipal witness emphasized his appreciation for VAAF and his lack of desire for additional oversight.
 - It may be the case that some municipalities want more control over outdoor cannabis siting - it is also the case that some want more control over ag. The question isn't about what a few towns want in this respect, it's about what's an appropriate regulation for the given activity, in this case one that is clearly agricultural in nature.
- 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;
 - Yes, they should. This is a crop nearly identical to an agricultural crop - hemp - in any way it could be considered a nuisance. This law is well suited to these operations and to conflicts with neighbors. The one addition we may suggest, is some sort of mediation offering in the event of conflict in an effort to mitigate and resolve difficulties before further action is taken.
- 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.

No - as we have said here in many ways, though should not be granted additional authority and new authorities recently granted should be revoked.

Lastly, I want to mention our advocacy again for direct markets for producers. These people and businesses cannot afford to only be allowed to sell wholesale. They do not want to be retailers selling other peoples' products - they want to sell their own products to people directly and this is very different from having a retail license in scale, scope, risk, etc.. People want to be able to have wholesale and direct sale aspects to their businesses. It is entirely reasonable to articulate scale appropriate regulations for point of sales for producers, and to build that out collaboratively with the CCB. We have language developed from past bills, and continue to draft detailed processes that could be established and articulated beyond the language we already have.

We appreciate your questions and support - and are happy to bring in stakeholders to directly speak to their experiences related to these topics. Thank you.