

Dear Senate Committee on Economic Development,

The VT Cannabis Equity Coalition would like to respond to some of the testimony we heard this past week, on April 30th, in your committee.

Chair Clarkson began the testimony on April 30th by saying to James Pepper (Chair of the Cannabis Control Board), “we had sent the director of the Cannabis Control Board off with many of the stakeholders to develop a proposal for amendment, we have several to consider.” The proposals that James then presented following this statement were not only developed unilaterally without any stakeholders being convened, but the one related to “cannabis showcase event markets” doesn’t even accomplish what he was asked to convene stakeholders in relationship to - direct sales for producers (licensed cultivators and manufacturers). Rather, he presented an event proposal which grossly appropriates the term “farmers’ market” to talk about a retail centered event in which cultivators and manufacturers (the producers and farmers themselves) are not only not able to hold a permit themselves, but they have no guarantee of any profit share from the sales at the event and are beholden to the retail licensee host, making them nothing more than decorations or accessories for decentralized sales for licensed retailers. In not directly addressing the Chair’s comments, but continuing with proposals before the committee, James was allowing his proposals to be implicitly seen by the committee and audience as having been developed in consultation with stakeholders when in fact they were not. This, and what actually happened, evidences the lack of credibility and trust our community experiences with the CCB, James Pepper, and Gabriel (Gabe) Gilman (General Counsel to the Cannabis Control Board); and it contrasts with the degree of inclusion, transparency, stakeholder input, and public good which our work and proposals are grounded in.

On April 23rd, Chair Clarkson asked the CCB / James Pepper to convene stakeholders to reach common ground on direct sales for cultivators and manufacturers (Sen. Ram Hinsdale also directly asked another person / lobbyist a week prior to do this convening and we never heard from him either). Directly following this ask of the CCB, Graham Unangst-Rufenacht (Policy Director, Rural Vermont) and Geoffrey Pizzutillo (Vermont Growers’ Association) met with James and Gabe in the room next to the Sen. Economic Development room. Graham asked James if they were going to convene stakeholders to talk about direct sales now (as for years James has told us he will only do anything - such as mention or present the legislatively mandated reports he has barely spoken of this year - if he is directly asked by the legislature to do so). James responded by saying, “I’m not going to talk about this with you Graham”, and left the room. Geoffrey, Graham, and Gabe then continued to talk for several minutes. Gabe was also asked whether they would convene stakeholders. He said he would consider it, but that there would be no conversation about direct sales for cultivators and manufacturers as a part of that discussion. We told him that that is exactly what they were asked to convene people around - and that we wouldn’t come to a table at which the very thing we are asked to be at a table to achieve is actually not the goal of the convener, and not even subject to discussion. Gabe said, that they could not administer or do compliance for direct sales or more events - we stated our disagreement, and brought up our conversations with the Director of Compliance for the CCB, and the cultivators and manufacturers already tracking, tracing, driving and selling product all over the state, and who are already being visited by compliance officers throughout the year.

Gabe also said, as he did in his testimony on April 30th, that the market had to reach “equilibrium” prior to any significant changes like this being considered. It’s very important for the committee to know what we understand him to mean by “equilibrium”. Graham replied that without direct market access tens or hundreds of businesses may fail; in response to which Gabe said that “farms go out of business”, implying that’s just how it goes, it’s all a part of the plan. To Gabe, “equilibrium” in this context means VT small farmers and businesses failing. What is striking is that we are not talking about farms and businesses failing due to negligence necessarily, or poor management, but failing because the market and its regulations are deeply inequitable and the regulatory community and legislature have not listened to these market actors. A comment like this from a member of the CCB demonstrates not only an incredible lack of empathy for the regulated community which the CCB is responsible for assuring the well being of (the smallest actors in particular), but also a market vision (consolidation, concentration, centralization) which is directly opposed to our coalition’s, to VT’s agricultural economy and greater small business economy, and to the mandates for the regulated cannabis economy and the CCB including: equitable administration and support for all licensees, support for the inclusion of small farms and the legacy community, and support for consumers and medical patients. Having worked with many different agencies and departments in the VT state and federal governments across our coalition (perhaps of most relevance the VT Agency of Agriculture given we are talking about a plant based horticultural economy), for a member of any regulatory body to be speaking in this way about the people and businesses they are regulating is deeply disappointing and concerning to us, it frays the community’s trust in the CCB.

Further, after we heard some very impactful testimony from direct stakeholders (Amy Lems, former licensed manufacturer; Jessilyn Dolan, nurse / educator / patient / former licensed cultivator), Gabe was asked to share anything from his perspective related to the testimony. He proceeded to speak with authority around issues such as compliance, “administrative feasibility”, what type of licensee is or is not an expert in IT / inventory tracking / and more within the industry, what other states are considering in relation to direct sales and more.

The position description for the General Counsel for the CCB reads:

“The duties of the GC include oversight of the legal aspects of the Board’s various programs and the associated appeal efforts in those programs, providing specialized legal advice on issues of substantial public policy concerns and impact to the Board, and reviewing and drafting legislation. The GC may appear before legislative committees on bills of particular importance, and assist the Board in the development, implementation and execution of litigation strategies in State forums on complex regulatory matters. The GC will represent the Board to the public, other State agencies, and the Vermont General Assembly.”

We believe that this testimony from Gabe is not only inaccurate, but we question whether it is situated within his scope of work and expertise as General Counsel. He went so far as to say that it would “break the whole system if we were to do what has been suggested”... “direct sales is not administratively viable”. That is unsubstantiated demagoguery and we ask the Committee to recognize that Gabe and the CCB have not demonstrated *any* evidence to support their claims.

If the committee would like to learn about administrative feasibility, about IT, about inventory tracking and the existing systems of compliance and administration - we suggest it go to experts in these fields such as:

- The Director of Compliance and Enforcement for the CCB, Michael DiTomaso; or former Director of Compliance and Enforcement Carey Giguere
- Joshua Decatur; licensed cultivator, retailer and the founder of TRACE, the track and trace system the state of VT contracted with to help administer its hemp program for many years.
- Any number of existing licensed cultivators and manufacturers who are currently doing rigorous tracking, tracing, compliance, auditing, transportation, sales, and more including the Lt. Governor and licensees we have recommended to the committee for testimony.

If the Committee would like to learn from qualified sources more about the cultures and economies of cannabis and agriculture in other states and in VT, or how the communities of farmers, cultivators and manufacturers in other states are working towards achieving market equity and goals related to direct sales or our other priorities - please consider asking Geoffrey Pizzutillo who is a member of the National Craft Cannabis Association and who regularly speaks to people representing the stakeholders in these states; or Jake Claro or Ellen Kahler at the VT Sustainable Jobs Fund who have worked extensively through VT Farm to Plate to understand and grow VT's agricultural economy; or Graham Unangst-Rufenacht (Rural VT) or Maddie Monty (NOFA VT) both of whose organizations are members of the National Family Farm Coalition and work with agricultural policy development and farmers around Vermont professionally.

We acknowledge, and have before, that we do appreciate some aspects of how the CCB and legislature have developed the market - such as a ban on horizontal integration (which we do see the erosion of by well capitalized players at this time). We are not seeking to be adversarial - we have participated actively and in good faith with the CCB for years, including in all 3 of the legislatively mandated reports from last session. However, the number of cultivators and small cultivators which Gabe evidences as a measure of the CCB "looking out for small cultivators" and "making sure things are fair" says nothing about the economic health of those licensees, and has less to do with anything the CCB has done than it does the unique agricultural and cannabis communities and economies which exist and have existed in VT prior to the CCB and regulated market. These licensees, these people, have extended their trust by attempting to join this newly regulated market - and the CCB is deliberately ignoring their pleas for help right now, such as the CCB's own survey ([link](#)) of small cultivators demonstrating that the #1 need is direct markets, and General Counsel speaking to the need to reach a market "equilibrium" in which many of these businesses will no longer be around.

We know many licensees right now who are planning on not renewing, and many who only have a license to sell products they produced in past years, they are not producing more product and will be leaving the market because it is not viable for them. It is paternalistic and inaccurate for the General Counsel to claim that they have been "looking out for small cultivators" and "making

sure things are fair” while ignoring the expressed needs of this community and the advocates who are working to accomplish these needs, in particular while standing in front of a licensee with no acknowledgement of the testimony she just provided explicitly about the profiteering and unfair practices enabled by the market structure, and who advocated for direct sales and many other fundamental market adjustments herself.

In terms of James’ desire to take 70% of the excise tax for the CCB - we are curious about how that does or does not contradict the CCB’s own recommendation in its recent report ([link](#)) on the Cannabis Business Development Fund and community reinvestment, in which it asks for 25% of the excise tax to go to the Land Access and Opportunity Board? Are they advocating for both of these things... or to take money that is currently going to prevention, after school programming, etc.? We’d like more clarity on this. The Cannabis Business Development Fund’s past appropriation of \$500,000 - and its proposed and CCB recommended base funding and expansion to \$1 million - continues to not be included in the budget to our knowledge, reinforcing the lack of available resources to the most marginalized licensees.

We reject the implication from the Vermont Medical Society or any other entity which conflates a more equitable market and regulated direct sales for producers with increased underage access to, or use of, cannabis. VMS said, “more retail access is more access for youth”. Nobody is advocating for youth consumption, nobody is advocating for unregulated sales. Many of us are parents, youth educators, mentors; and we find these implications troubling. It is unreasonable to assert that we need a highly inequitable, centralized, consolidated, and concentrated market in which the very producers of the products creating value are relegated to wholesale commodity sales to achieve protection of underage folks. On the contrary, we feel that our policies support the primary determinants of prevention and health such as decentralized wealth generation, people having just livelihoods, economic agency and power, and the positive outcomes associated with these things (housing, food security, etc.).

It is our coalition’s perspective that regulations for cannabis in general should necessarily be less restrictive than those for alcohol and tobacco given their objectively more dangerous and harmful outcomes. Here are some licenses available to alcohol producers and descriptions of them from the VT Division of Liquor Control’s website:

- Farmer's Market permits allow you to conduct tastings and sell by the bottle at a Farmer's Market.
- A Fourth class license at your manufacturing site or at another off site tasting room allows you to sell to consumers by the bottle or by the glass for tastings.
- Special Event permits allow you to take your product to any event and sell by the glass or unopened bottle.

Fable Farm and Fermentory’s Chris Piana raised his hand to speak in support of cannabis farmers having direct sales in the Senate Agriculture Committee during Rural VT’s Small Farm

Action Day on March 26th (during which 2 cultivators spoke to both the House and Senate Ag Committees; another 2 spoke at the April 23rd Small Farm Action Day as well). He explains how he can very easily and affordably access a Fourth Class license, allowing him to directly sell his farm grown and fermented ciders from his farm directly to consumers. He has spoken in other places about how this license has made a significant difference in his farm's viability, and the quality of the work and experience he is co-creating in his community, at Feast and Field and other events.

In contrast to the unilateral proposals of the CCB and their lack of willingness to come to a table with us and other stakeholders; the VT Cannabis Equity Coalition did convene stakeholders (Lt Gov, Cannabis Retailers Association of VT, VT NRML, LAOB, etc.) in order to reach more common ground. We understand our priorities, and recommended statutory language to objectively have more support and more hands in crafting them than any other proposals that have been put forward. We believe that we have demonstrated the integrity of our proposals (and we welcome more stakeholders to be brought in to continue to demonstrate this), good faith efforts to meet the committees' desire to have more common ground, and all in response to very real needs expressed by our communities, businesses, and small producers. Our proposals have the support of membership based organizations representing thousands of VT residents, we have more direct stakeholders of every license type supporting all of our priorities and language than any other proposal, we have more organizations and businesses behind us than any other proposal (more than 70 based on the sign-on to our original proposals), and we have the CCB's very own surveying of Tier 1 producers and its mandated reports attesting to many of the priorities we have. We have spoken with the director of compliance at the CCB, and we have spoken with insurance companies, and this language reflects their thoughts and concerns. There is no other proposal which we understand to be more representative of the VT public and the direct stakeholders involved, and no proposal that has been more vetted than the ones the VT Cannabis Equity Coalition has shared with you.

Thank you,

VT Cannabis Equity Coalition