

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred House Bill No. 270 entitled “An act relating to
4 miscellaneous amendments to the adult-use and medical cannabis programs”
5 respectfully reports that it has considered the same and recommends that the
6 Senate propose to the House that bill be amended by striking out all after the
7 enacting clause and inserting in lieu thereof the following:

8 Sec. 1. 7 V.S.A. § 843 is amended to read:

9 § 843. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

10 * * *

11 (h) ~~Advisory committee.~~

12 ~~(1) There is an advisory committee established within the Board that~~
13 ~~shall be composed of members with expertise and knowledge relevant to the~~
14 ~~Board’s mission. The Board shall collaborate with the advisory committee on~~
15 ~~recommendations to the General Assembly. The advisory committee shall be~~
16 ~~composed of the following 14 members:~~

17 ~~(A) one member with an expertise in public health, appointed by the~~
18 ~~Governor;~~

19 ~~(B) the Secretary of Agriculture, Food and Markets or designee;~~

20 ~~(C) one member with an expertise in laboratory science or~~
21 ~~toxicology, appointed by the Governor;~~

1 ~~(D) one member with an expertise in systemic social justice and~~
2 ~~equity issues, appointed by the Speaker of the House;~~

3 ~~(E) one member with an expertise in women and minority owned~~
4 ~~business ownership, appointed by the Speaker of the House;~~

5 ~~(F) the Chair of the Substance Misuse Prevention Oversight and~~
6 ~~Advisory Council or designee;~~

7 ~~(G) one member with an expertise in the cannabis industry, appointed~~
8 ~~by the Senate Committee on Committees;~~

9 ~~(H) one member with an expertise in business management or~~
10 ~~regulatory compliance, appointed by the Treasurer;~~

11 ~~(I) one member with an expertise in municipal issues, appointed by~~
12 ~~the Senate Committee on Committees;~~

13 ~~(J) one member with an expertise in public safety, appointed by the~~
14 ~~Attorney General;~~

15 ~~(K) one member with an expertise in criminal justice reform,~~
16 ~~appointed by the Attorney General;~~

17 ~~(L) the Secretary of Natural Resources or designee;~~

18 ~~(M) the Chair of the Cannabis for Symptom Relief Oversight~~
19 ~~Committee or designee; and~~

20 ~~(N) one member appointed by the Vermont Cannabis Trade~~
21 ~~Association.~~

~~(4) Members of the advisory committee who are not otherwise compensated by the member's employer for attendance at meetings shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings annually. These payments shall be made from the Cannabis Regulation Fund. [Repealed.]~~

Sec. 2. REPEAL; SUNSET OF CANNABIS CONTROL BOARD

2020 Acts and Resolves No. 164, Sec. 6e is repealed.

Sec. 3. 7 V.S.A. § 845 is amended to read:

§ 845. CANNABIS REGULATION FUND

* * *

(c) Monies from the Fund shall only be appropriated for the purposes of implementation, administration, and enforcement of this chapter and ~~chapter 33~~ chapters 33, 35, and 37 of this title.

* * *

Sec. 4. 7 V.S.A. § 861 is amended to read:

§ 861. DEFINITIONS

As used in this chapter:

* * *

(2) “Advertisement” means any written or verbal statement, illustration, or depiction that ~~is calculated to induce~~ would reasonably have the effect of inducing sales of cannabis or cannabis products, including any written, printed, graphic, or other material; billboard, sign, or other outdoor display; other periodical literature, publication, or in a radio or television broadcast; the Internet; or in any other media. The term does not include:

(A) any label affixed to any cannabis or cannabis product or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee;

(C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or

(D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

* * *

(8) “Cannabis establishment” means a cannabis cultivator, propagation cultivator, wholesaler, product manufacturer, retailer, testing laboratory, or integrated licensee licensed by the Board to engage in commercial cannabis activity in accordance with this chapter.

* * *

(31) “Cannabis propagation cultivator” or “propagation cultivator” means a person licensed by the Board to cultivate cannabis clones, immature plants, and mature plants in accordance with this chapter.

Sec. 5. 7 V.S.A. § 863 is amended to read:

§ 863. REGULATION BY LOCAL GOVERNMENT

* * *

(b) A municipality that hosts any cannabis establishment may establish a cannabis control commission composed of commissioners who may be members of the municipal legislative body. The local cannabis control commission may issue and administer local control licenses under this subsection for cannabis establishments within the municipality but shall not assess a fee for a local control license issued to a cannabis establishment. The commissioners may condition the issuance of a local control license upon compliance with any bylaw adopted pursuant to 24 V.S.A. § 4414 or upon ordinances regulating signs or public nuisances adopted pursuant to 24 V.S.A.

1 § 2291, except that ordinances may not regulate public nuisances as applied to
2 outdoor cultivators that are regulated in the same manner as the Required
3 Agricultural Practices under subdivision 869(f)(2) of this title. The
4 commission may suspend or revoke a local control license for a violation of
5 any condition placed upon the license. The Board shall adopt rules relating to
6 a municipality's issuance of a local control license in accordance with this
7 subsection and the local commissioners shall administer the rules furnished to
8 them by the Board as necessary to carry out the purposes of this section.

9 (c) Prior to issuing a license to a cannabis establishment under this
10 chapter, the Board shall ensure that the applicant has obtained a local control
11 license from the municipality, if required, unless the Board finds that the
12 municipality has exceeded its authority under this section.

13 (d) A municipality shall not:

14 (1) prohibit the operation of a cannabis establishment within the
15 municipality through an ordinance adopted pursuant to 24 V.S.A. § 2291 or a
16 bylaw adopted pursuant to 24 V.S.A. § 4414, or regulate a cannabis
17 establishment in a manner that has the effect of prohibiting the operation of a
18 cannabis establishment;

19 (2) condition the operation of a cannabis establishment, or the issuance
20 or renewal of a municipal permit to operate a cannabis establishment, on any
21 basis other than the conditions in subsection (b) of this section; ~~and~~ or

1 (3) exceed the authority granted to it by law to regulate a cannabis
2 establishment.

3 Sec. 6. 7 V.S.A. § 869 is amended to read:

4 § 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND
5 USE STANDARDS; REGULATION OF ~~SMALL CULTIVATORS~~
6 CULTIVATION

7 (a) A cannabis establishment shall not be regulated as “farming” under the
8 Required Agricultural Practices, 6 V.S.A. chapter 215, or other State law, and
9 cannabis produced from cultivation shall not be considered an agricultural
10 product, farm crop, or agricultural crop for the purposes of 32 V.S.A. chapter
11 124, 32 V.S.A. § 9741, or other relevant State law.

12 (b) The cultivation, processing, and manufacturing of cannabis regulated
13 under this chapter shall comply with all applicable State, federal, and local
14 environmental, energy, or public health law, unless otherwise provided under
15 this chapter.

16 (c) A cannabis establishment regulated under this chapter shall be subject
17 to regulation under 24 V.S.A. chapter 117 as authorized by this chapter, unless
18 otherwise provided under this chapter.

19 (d)(1) The cultivation, processing, and manufacturing of cannabis by all
20 cultivators regulated under this chapter shall comply with the following

1 sections of the Required Agricultural Practices as administered and enforced
2 by the Board:

3 (A) section 6, regarding conditions, restriction, and operating
4 standards;

5 (B) section 8, regarding groundwater quality and groundwater quality
6 investigations; and

7 (C) section 12, regarding subsurface tile drainage.

8 (2) Application of or compliance with the Required Agricultural
9 Practices under subdivision (1) of this subsection shall not be construed to
10 provide a presumption of compliance with or exemption to any applicable
11 State, federal, and local environmental, energy, public health, or land use law
12 required under subsections (b) and (c) of this section.

13 (e) Persons cultivating cannabis or handling pesticides for the purposes of
14 the manufacture of cannabis products shall comply with the worker protection
15 standard of 40 C.F.R. Part 170.

16 (f) Notwithstanding subsection (a) of this section, a ~~small~~ cultivator
17 licensed under this chapter who initiates cultivation of cannabis outdoors on a
18 parcel of land ~~that was subject to the Required Agricultural Practices prior to~~
19 ~~licensed cultivation of cannabis~~ shall:

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

4 (2) not be regulated by a municipal bylaw adopted under 24 V.S.A.
5 chapter 117 in the same manner that Required Agricultural Practices are not
6 regulated by a municipal bylaw under 24 V.S.A. § 4413(d)(1)(A);

7 (3) be eligible to enroll in the Use Value Appraisal Program under 32
8 V.S.A. chapter 124 for the cultivation of cannabis, ~~provided that the~~
9 ~~agricultural land or farm building on the parcel where cannabis cultivation~~
10 ~~occurs was enrolled in the Use Value Appraisal Program prior to~~
11 ~~commencement of licensed cannabis cultivation and the parcel continues to~~
12 ~~qualify for enrollment; and~~

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

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

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

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VT LEG #369257 v.1

1 ~~(A) any record in an application for a license relating to security,~~
2 ~~public safety, transportation, or trade secrets, including information provided~~
3 ~~in an operating plan pursuant to subdivision 881(a)(1)(B) of this title; and~~

4 ~~(B) any licensee record relating to security, public safety,~~
5 ~~transportation, trade secrets, or employees.~~

6 ~~(2) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act~~
7 ~~exemption created in this subsection shall continue in effect and shall not be~~
8 ~~repealed through operation of 1 V.S.A. § 317(e). [Repealed.]~~

9 Sec. 9. 7 V.S.A. § 901a is added to read:

10 § 901a. ACCESSIBILITY AND CONFIDENTIALITY OF LICENSING
11 AND DISCIPLINARY MATTERS

12 (a) It is the purpose of this section to protect the reputation, security
13 practices, and trade secrets of licensees from undue public disclosure while
14 securing the public's right to know of government licensing actions relevant to
15 the public health, safety, and welfare.

16 (b) All meetings and hearings of the Board shall be subject to the Vermont
17 Open Meeting Law.

18 (c) The following shall be exempt from public inspection and copying
19 under the Public Records Act and shall be kept confidential:

1 (1) records related to licensee security, safety, transportation, or trade
2 secrets, including information provided in an operating plan pursuant to
3 subdivision 881(a)(1)(B) of this title; and

4 (2) records related to complaints, investigations, or proceedings, except
5 as provided in subsection (d) of this section.

6 (d)(1) If a complaint or investigation results in formal action to revoke,
7 suspend, condition, reprimand, warn, fine, or otherwise to penalize a licensee
8 based on noncompliance with law or regulation, the case record, as defined by
9 3 V.S.A. § 809(e), shall be available for public inspection and copying under
10 Vermont’s Public Records Act.

11 (2) The Board shall prepare and maintain an aggregated list of all closed
12 investigations into misconduct or noncompliance from whatever source
13 derived. The information contained in the list shall be available for public
14 inspection and copying under Vermont’s Public Records Act. The list shall
15 contain the date, nature, and outcome of each complaint. The list shall not
16 contain the identity of the subject licensee unless formal action resulted, as
17 described in subdivision (1) of this subsection.

18 (e) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption
19 created in this section shall continue in effect and shall not be repealed through
20 operation of 1 V.S.A. § 317(e).

§ 904. CULTIVATOR LICENSE

* * *

§ 904b. PROPAGATION CULTIVATOR LICENSE

definition of hemp to a licensed cultivator or retailer or to the public.

1 (b) A licensed propagation cultivator shall not cultivate mature cannabis
2 plants for the purpose of producing, harvesting, transferring, or selling
3 cannabis flower for or to any person.

4 Sec. 12. PROPAGATION CULTIVATOR LICENSE IMPLEMENTATION

5 The Cannabis Control Board shall begin issuing propagation cultivator
6 licenses on or before July 1, 2024.

7 Sec. 13. 7 V.S.A. § 905 is amended to read:

8 § 905. WHOLESALE LICENSE

9 A wholesaler licensed under this chapter may:

10 (1) purchase cannabis ~~from a licensed cultivator and integrated licensee,~~
11 and cannabis products from a licensed ~~product manufacturer, integrated~~
12 ~~licensee, and dispensary~~ cannabis establishment;

13 (2) transport, process, package, and sell cannabis and cannabis products
14 to a licensed ~~product manufacturer, retailer, integrated licensee, and dispensary~~
15 cannabis establishment; and

16 (3) sell cannabis seeds or immature cannabis plants to a licensed
17 cultivator.

18 Sec. 14. 7 V.S.A. § 906 is amended to read:

19 § 906. PRODUCT MANUFACTURER LICENSE

20 A product manufacturer licensed under this chapter may:

(1) purchase cannabis ~~from a licensed cultivator, wholesalers, or integrated licensee,~~ and cannabis products from a licensed ~~wholesaler, product manufacturer, integrated licensee, and dispensary~~ cannabis establishment;

(2) use cannabis and cannabis products to produce cannabis products;
and

(3) transport, process, package, and sell cannabis products to a licensed ~~wholesaler, product manufacturer, retailer, integrated licensee, and dispensary~~ cannabis establishment.

Sec. 15. 7 V.S.A. § 907 is amended to read:

§ 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase cannabis ~~from a licensed cultivator, wholesaler, or integrated licensee,~~ and cannabis products from a licensed ~~wholesaler, product manufacturer, integrated licensee, and dispensary~~ 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.

* * *

Sec. 16. 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:

* * *

(3) Manufacturers.

(A) Manufacturer tier 1. Manufacturers that process and manufacture cannabis in order to produce cannabis products without using solvent-based extraction and not more than ~~\$10,000.00~~ \$50,000.00 per year in cannabis products based on the manufacturer's total annual sales in cannabis products shall be assessed an annual licensing fee of \$750.00.

* * *

(7) Propagation cultivators. Propagation cultivators shall be assessed an annual licensing fee of \$500.00.

(8) Employees. Cannabis establishments licensed by the Board shall be assessed an annual licensing fee of \$50.00 for each employee.

~~(8)~~(9) Products. Cannabis establishments licensed by the Board shall be assessed an annual product licensing fee of \$50.00 for every type of cannabis and cannabis product that is sold in accordance with this chapter.

~~(9)~~(10) Local licensing fees. Cannabis establishments licensed by the Board shall be assessed an annual local licensing fee of \$100.00 in addition to each fee assessed under subdivisions (1)–~~(6)~~(7) of this section. Local licensing fees shall be distributed to the municipality in which the cannabis establishment is located pursuant to section 846(c) of this title.

~~(10)~~(11) One-time fees.

1 (A) All applicants for a cannabis establishment license shall be
2 assessed an initial one-time application fee of \$1,000.00.

3 (B) An applicant may choose to be assessed an initial one-time
4 intent-to-apply fee of \$500.00. If the applicant subsequently seeks a license
5 within one year after paying the intent-to-apply fee, the initial one-time
6 application fee of \$1,000.00 shall be reduced by \$500.00.

7 Sec. 17. 7 V.S.A. chapter 35 is amended to read:

8 CHAPTER 35. MEDICAL CANNABIS REGISTRY

9 § 951. DEFINITIONS

10 As used in this chapter:

11 * * *

12 (8) “Qualifying medical condition” means:

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

18 (B) ~~post-traumatic stress disorder, provided the Department confirms~~
19 ~~the applicant is undergoing psychotherapy or counseling with a licensed~~
20 ~~mental health care provider; or~~

* * *

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* * *

1 § 954. CAREGIVERS

2 (a) Pursuant to rules adopted by the Board, a person may register with the
3 Board as a caregiver of a registered patient to obtain the benefits of the
4 Registry as provided in section 952 of this title.

5 ~~(b)(1) The Board shall adopt rules that set forth standards for determining~~
6 ~~whether an applicant should be denied a caregiver card because of his or her~~
7 ~~criminal history record. An applicant shall not be denied solely on the basis of~~
8 ~~a criminal conviction that is not listed in 13 V.S.A. chapter 25 or 28~~ conduct a
9 name and date of birth Vermont criminal conviction record background check
10 and obtain information from the Child Protection Registry maintained by the
11 Department for Children and Families and from the Vulnerable Adult Abuse,
12 Neglect, and Exploitation Registry maintained by the Department of
13 Disabilities, Aging, and Independent Living (collectively, the Registries) for
14 any person who applies to be a caregiver.

15 ~~(2) The Board shall obtain from the Vermont Crime Information Center~~
16 ~~a copy of the caregiver applicant's fingerprint-based Vermont criminal history~~
17 ~~records, out-of-state criminal history records, and criminal history records from~~
18 ~~the Federal Bureau of Investigation.~~

19 (c) The Board shall adopt rules that set forth standards for determining
20 whether an applicant should be denied a ~~cannabis establishment license~~

1 caregiver card because of his or her criminal history record the applicant's
2 criminal history record or status on either Registry.

3 (d)(1) Except as provided in subdivision (2) of this subsection, a caregiver
4 shall serve only one patient may serve not more than two patients at a time,
5 and a patient shall have only one registered caregiver at a time. A patient may
6 serve as a caregiver for one other patient.

7 (2) A patient who is under 18 years of age may have two caregivers.
8 Additional caregivers shall be at the discretion of the Board.

9 (e) Medicaid funds shall not be used to support a caregiver in the
10 cultivation or distribution of cannabis on behalf of a patient.

11 § 955. REGISTRATION; FEES

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

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

§ 956. RULEMAKING

The Board shall adopt rules for the administration of this chapter. ~~No rule shall be more restrictive than any rule adopted by the Department of Public Safety pursuant to 18 V.S.A. chapter 86.~~

Sec. 18. 33 V.S.A. § 4919 is amended to read:

§ 4919. DISCLOSURE OF REGISTRY RECORDS

(a) The Commissioner may disclose a Registry record only as follows:

* * *

(11) To the Cannabis Control Board, in accordance with the provisions of 7 V.S.A. § 954.

* * *

Sec. 19. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

* * *

(c) The Commissioner or designee may disclose Registry information only to:

* * *

(12) The Cannabis Control Board for the purpose of evaluating an individual's suitability to be a registered caregiver under 7 V.S.A. § 954.

* * *

§ 974. RULEMAKING

* * *

CANNABIS REGISTRY

(4) appropriate treatment protocols for patients, including whether ongoing medical oversight such as counseling or other services is needed for each condition being treated;

1 (5) how the use of cannabis is communicated to patients and patients’
2 providers; and

3 (6) any other issues that will improve the Registry.

4 (b) The Board shall convene the working group not less than four times to
5 complete its work.

6 (c) The Board shall provide recommendations for improvement to the
7 Medical Cannabis Registry to the Senate Committee on Health and Welfare
8 and the House Committees on Human Services and on Health Care on or
9 before January 15, 2024.

10 Sec. 22. 7 V.S.A. § 1001(8) is amended to read:

11 (8) “Tobacco substitute” means products, including electronic cigarettes
12 or other electronic or battery-powered devices, that contain or are designed to
13 deliver nicotine or other substances into the body through the inhalation of
14 vapor and that have not been approved by the U.S. Food and Drug
15 Administration for tobacco cessation or other medical purposes. ~~Products~~
16 Cannabis products as defined in section 831 of this title or products that have
17 been approved by the U.S. Food and Drug Administration for tobacco
18 cessation or other medical purposes shall not be considered to be tobacco
19 substitutes.

1 Sec. 23. 32 V.S.A. § 7702(15) is amended to read:

2 (15) “Other tobacco products” means any product manufactured from,
3 derived from, or containing tobacco that is intended for human consumption by
4 smoking, chewing, or in any other manner, including products sold as a
5 tobacco substitute, as defined in 7 V.S.A. § 1001(8), and including any liquids,
6 whether nicotine based or not, or delivery devices sold separately for use with
7 a tobacco substitute, but shall not include cigarettes, little cigars, roll-your-own
8 tobacco, snuff, ~~or~~ new smokeless tobacco as defined in this section, or
9 cannabis products as defined in 7 V.S.A. § 831.

10 Sec. 24. TRANSFER AND APPROPRIATION

11 Notwithstanding 7 V.S.A. § 845(c), in fiscal year 2024:

12 (1) \$500,000.00 is transferred from the Cannabis Regulation Fund
13 established pursuant to 7 V.S.A. § 845 to the Cannabis Business Development
14 Fund established pursuant to 7 V.S.A. § 987; and

15 (2) \$500,000.00 is appropriated from the Cannabis Business
16 Development Fund to the Agency of Commerce and Community Development
17 to fund technical assistance and provide loans and grants pursuant to 7 V.S.A.
18 § 987.

19 Sec. 25. EFFECTIVE DATE

20 This act shall take effect on passage.

1

2

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4 (Committee vote: _____)

5

6

Senator _____

7

FOR THE COMMITTEE