

Report of Committee of Conference

S.54

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon Senate Bill, entitled:

S.54. An act relating to the regulation of cannabis

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Title Redesignation * * *

Sec. 1. Title 7 of the V.S.A. is redesignated to read:

7. ALCOHOLIC BEVERAGES, CANNABIS, AND TOBACCO

* * * Cannabis Generally; Cannabis Control Board * * *

Sec. 2. 7 V.S.A. chapter 31 is added to read:

CHAPTER 31. CANNABIS

Subchapter 1. General Provisions

§ 831. DEFINITIONS

As used in this chapter:

(1) “Board” means the Cannabis Control Board.

(2)(A) “Cannabis” means all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (2), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Cannabis” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

(3) “Cannabis product” means concentrated cannabis and a product that is composed of cannabis and other ingredients and is intended for use or consumption, including an edible product, ointment, and tincture. Cannabis product shall include a vaporizer cartridge containing cannabis oil that is intended for use with a battery-powered device.

(4) “Chair” means the chair of the Cannabis Control Board.

(5) “Criminal history record” shall have the same meaning as in 20 V.S.A. § 2056a(a).

(6) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute is prohibited by law pursuant to 18 V.S.A. chapter 37.

§ 832. CANNABIS POSSESSED UNLAWFULLY SUBJECT TO

SEIZURE AND FORFEITURE

Cannabis possessed unlawfully in violation of this title may be seized by law enforcement and is subject to forfeiture.

§ 833. CONSUMPTION OF CANNABIS IN A PUBLIC PLACE

No person shall consume cannabis in a public place unless specifically authorized by law. Violations shall be punished in accordance with 18 V.S.A.

§ 4230a.

Subchapter 2. Cannabis Control Board

§ 841. CANNABIS CONTROL BOARD; APPOINTMENT

(a) When a vacancy occurs on the Cannabis Control Board, the Governor shall make a public announcement about the vacancy. The Governor shall

submit at least five names of potential candidates per vacancy to the Cannabis Control Board Nominating Committee for review.

(b) The Committee shall review the candidates to determine which candidates are well-qualified for appointment to the Board and shall recommend those candidates to the Governor. The names of candidates shall be confidential.

(c) The Governor shall appoint, with the advice and consent of the Senate, a chair and two members of the Board from the list of well-qualified candidates sent to the Governor by the Committee.

§ 842. CANNABIS CONTROL BOARD NOMINATING COMMITTEE

(a) Creation. The Cannabis Control Board Nominating Committee is created for the purpose of assessing the qualifications of applicants for appointment to the Cannabis Control Board in accordance with section 841 of this title.

(b) Members. The Committee shall consist of seven members who shall be selected as follows:

(1) The Governor shall appoint three members from the Executive Branch.

(2) The Speaker of the House of Representatives shall appoint two members from the House of Representatives.

(3) The Senate Committee on Committees shall appoint two members from the Senate.

(c) Duties. When the Governor submits the names of candidates for appointment to the Cannabis Control Board in accordance with section 841 of this title, the Committee shall review candidates to determine which candidates are well-qualified for the Board and submit those names to the Governor.

(d) Terms. The members of the Committee shall serve for terms of two years. Members shall serve until their successors are appointed. Members shall serve not more than three consecutive terms in any capacity. A legislative member who is appointed as a member of the Committee shall retain the position for the term for which he or she was appointed to the Committee even if the member is subsequently not reelected to the General Assembly during the member's term on the Committee.

(e) Chair. The members shall elect their own chair.

(f) Quorum. A quorum of the Committee shall consist of four members.

(g) Staff and services. The Committee is authorized to use the staff and services of appropriate State agencies and departments as necessary to conduct investigations of applicants.

(h) Confidentiality. Except as provided in subsection (i) of this section, proceedings of the Committee, including the names of candidates considered by the Committee and information about any candidate submitted by the

Governor, shall be confidential. The provisions of 1 V.S.A. 317(e) (expiration of Public Records Act exemptions) shall not apply to the exemptions or confidentiality provisions in this subsection.

(i) Public information. The following shall be public:

(1) operating procedures of the Committee;

(2) standard application forms and any other forms used by the Committee, provided they do not contain personal information about a candidate or confidential proceedings;

(3) all proceedings of the Committee prior to the Board's receipt of the first candidate's completed application; and

(4) at the time the Committee sends the names of the candidates to the Governor, the total number of applicants for the vacancies and the total number of candidates sent to the Governor.

(j) Reimbursement. Legislative members of the Committee shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406. Compensation and reimbursement shall be paid from the legislative appropriation.

§ 843. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

(a) Creation. There is created within the Executive Branch an independent commission named the Cannabis Control Board for the purpose of safely,

equitably, and effectively implementing and administering the laws enabling access to adult-use cannabis in Vermont.

(b) Duties. The duties of the Board shall be:

(1) rulemaking in accordance with this chapter, chapters 33–37 of this title, and 3 V.S.A. chapter 25;

(2) administration of a program for licensed cannabis establishments, which shall include compliance and enforcement;

(3) administration of the Medical Cannabis Registry on and after March 1, 2022;

(4) administration of a program for licensed medical cannabis dispensaries, which shall include compliance and enforcement, on and after March 1, 2022; and

(5) submission of an annual budget to the Governor.

(c) Membership.

(1) The Board shall be composed of a chair and two members appointed by the Governor in accordance with sections 841 and 842 of this title.

(2) All Board members shall serve for a term of three years or until a successor is appointed and shall be eligible for reappointment, provided that no member may serve more than three terms.

(3) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the

term. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of subdivision (2) of this subsection.

(4) A member may be removed only for cause by the remaining members of the Commission in accordance with the Vermont Administrative Procedure Act.

(d) Conflicts of interest.

(1) No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to regulation by the Board.

(2) No Board member shall participate in creating or applying any law, rule, or policy or in making any other determination if the Board member, individually or as a fiduciary, or the Board member's spouse, parent, or child wherever residing or any other member of the Board member's family residing in his or her household has an economic interest in the matter before the Board or has any more than a de minimus interest that could be substantially affected by the proceeding.

(3) No Board member shall, during his or her term or terms on the Board, solicit, engage in negotiations for, or otherwise discuss future employment or a future business relationship of any kind with any person subject to supervision or regulation by the Board.

(4) No Board member may appear before the Board or any other State agency on behalf of a person subject to supervision or regulation by the Board for a period of one year following his or her last day as a member of the Cannabis Control Board.

(e) Salaries. The Chair and all members of the Board shall be full-time State employees and shall be exempt from the State classified system. The Chair shall receive compensation equal to two-thirds that of a Superior Court Judge and other members shall receive compensation equal to one-half that of a Superior Court Judge.

(f) Executive Director. The Board shall appoint an Executive Director who shall be an attorney with experience in legislative or regulatory matters. The Director shall be a full-time State employee, shall be exempt from the State classified system, and shall serve at the pleasure of the Board. The Director shall be responsible for:

(1) supervising and administering the operation and implementation of this chapter and chapters 35 and 37 of this title and the rules adopted by the Board as directed by the Board;

(2) assisting the Board in its duties and administering the licensing requirements of this chapter and chapters 35 and 37 of this title;

(3) acting as Secretary to the Board, but as a nonvoting member of the Board;

(4) employing such staff as may be required to carry out the functions of the Board; and

(5) preparing an annual budget for submission to the Board.

(g) Consultant. The Board is authorized to hire a consultant as needed to assist with its duties under this section.

(h) Advisory committee.

(1) There is an advisory committee established within the Board that shall be composed of members with expertise and knowledge relevant to the Board's mission. The advisory committee shall be composed of the following 12 members:

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

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

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

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

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

(F) one member with an expertise in substance misuse prevention appointed by the Senate Committee on Committees;

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

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

(I) one member with an expertise in municipal issues appointed by the Treasurer;

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

(K) one member with an expertise in criminal justice reform appointed by the Attorney General; and

(L) the Secretary of Natural Resources or designee.

(2) Initial appointments to the advisory committee as provided in subdivision (1) of this subsection (h) shall be made on or before May 1, 2021.

(3) The Board may establish subcommittees within the advisory committee to accomplish its work.

(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.

§ 844. AUTHORITY FOR CRIMINAL BACKGROUND CHECKS

The Board shall establish a user agreement with the Vermont Crime Information Center in accordance with 20 V.S.A. chapter 117 for the purpose of obtaining Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation as required by chapters 33 (cannabis establishments) and 37 (medical cannabis dispensaries) of this title.

§ 845. CANNABIS REGULATION FUND

(a) There is established the Cannabis Regulation Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. The Fund shall be maintained by the Cannabis Control Board.

(b) The Fund shall be composed of:

(1) all State application fees, annual license fees, renewal fees, and civil penalties collected by the Board pursuant to chapters 33 (cannabis establishments) and 37 (medical cannabis dispensaries) of this title; and

(2) all annual and renewal fees collected by the Board pursuant to chapter 35 (medical cannabis registry) of this title.

(c) Monies from the fund shall only be appropriated for the purposes of implementation, administration, and enforcement of this chapter and chapter 33 of this title.

§ 846. FEES

(a) The Board shall have the authority to charge and collect State and local license fees as provided under this chapter and chapter 33 of this title. State and local license fees shall be due and payable at the time of application or renewal.

(b) The Board shall deposit State fees into the Cannabis Regulation Fund.

(c) After reduction for costs of administration and collection, the Board shall pay local license fees on a quarterly basis to the municipality in which the fees were collected.

§ 847. APPEALS

(a)(1) A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director who shall assign the case to an appellate officer.

(2)(A) The review shall be conducted on the basis of the record created before the Board.

(B) In cases of alleged irregularities in procedure before the Board not shown in the record, proof on that issue may be taken by the appellate officer.

(b) The appellate officer shall not substitute his or her judgment for that of the Board as to the weight of the evidence on questions of fact. The appellate officer may affirm the decision or may reverse and remand the matter with

recommendations if substantial rights of the appellant have been prejudiced because the Board’s finding, inferences, conclusions, or decisions are:

(1) in violation of constitutional or statutory provisions;

(2) in excess of the statutory authority of the Board;

(3) made upon unlawful procedure;

(4) affected by other error of law;

(5) clearly erroneous in view of the evidence on the record as a whole;

(6) arbitrary or capricious; or

(7) characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(c) A party aggrieved by a decision of the appellate officer may appeal to the Supreme Court, which shall review the matter on the basis of the records created before the Board.

(d) The Board shall have the authority to contract for the services of an appellate officer.

Sec. 3. IMPLEMENTATION OF THE CANNABIS CONTROL BOARD

(a) The Cannabis Control Board, created in Sec. 2 of this act, is established.

(b) Appointments to the Cannabis Control Board Nominating Committee shall be made on or before November 1, 2020.

(c) The Governor shall send the names of candidates to the Committee on or before November 4, 2020.

(d) The Committee shall send the names of well-qualified candidates to the Governor on or before December 18, 2020.

(e) The Governor shall appoint members to the Board on or before January 8, 2021.

(f) The Senate shall take up the issue of confirmation of the Governor’s appointments to the Board on or before January 15, 2021

(g) Board members shall begin their terms on January 19, 2021.

(h)(1) In order to stagger the terms of the members of the Board, the initial terms of those members shall be as follows:

(A) the Chair shall serve for a three-year term;

(B) one member shall serve for a two-year term; and

(C) one member shall serve for a one-year term.

(2) After the expiration of the initial terms set forth in subdivision (1) of this subsection, Board member terms shall be as set forth in 7 V.S.A. § 843.

Sec. 4. IMPLEMENTATION OF RULEMAKING BY THE CANNABIS

CONTROL BOARD

On or before June 1, 2021, the Cannabis Control Board shall initiate rulemaking for cannabis establishments pursuant to 7 V.S.A. § 881, the Medical Cannabis Registry pursuant to 7 V.S.A. § 952, and medical cannabis dispensaries pursuant to 7 V.S.A. § 974.

Sec. 5. CANNABIS CONTROL BOARD REPORT TO THE GENERAL ASSEMBLY; PROPOSAL FOR POSITIONS, FEES, AND APPROPRIATIONS FOR FISCAL YEARS 2022 AND 2023; LAND USE, ENVIRONMENTAL, ENERGY, AND EFFICIENCY REQUIREMENTS OR STANDARDS; OUTREACH, TRAINING, AND EMPLOYMENT PROGRAMS; ONLINE ORDERING AND DELIVERY; ADDITIONAL TYPES OF LICENSES

(a) On or before April 1, 2021, the Executive Director of the Cannabis Control Board shall provide recommendations to the General Assembly on the following:

(1) Resources necessary for implementation of this act for fiscal years 2022 and 2023, including positions and funding. The Board shall consider utilization of current expertise and resources within State government and cooperation with other State departments and agencies where there may be an overlap in duties.

(2) State fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 846. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d). The State fees submitted in accordance with this subdivision shall be projected to be sufficient to fund the duties of the Cannabis Control Board as provided in 7 V.S.A. § 843. To the extent possible,

the recommend fees shall include an amount to repay over a period, not greater than 10 years, to the General Fund any application of excise taxes to the Cannabis Regulation Fund made pursuant to Sec. 6c of this act.

(A) Application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license as provided in 7 V.S.A. § 846: cultivator, product manufacturer, wholesaler, retailer, testing laboratory, and integrated. If the Board establishes tiers within a licensing category, it shall provide a fee recommendation for each tier.

(B) Fee for a cannabis establishment identification card as provided in 7 V.S.A. § 884.

(3) Whether monies expected to be generated by State fees identified in subdivision (2) of this subsection are sufficient to support the statutory duties of the Board and whether any portion of the tax established pursuant to 32 V.S.A. § 7902 should be allocated to the Cannabis Regulation Fund to ensure these duties are met.

(4) Local fees to be charged and collected in accordance with the Board’s authority pursuant to 7 V.S.A. § 846. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d). The Board shall recommend local fees that are designed to help defray the costs incurred by municipalities in which cannabis establishments are located.

(b) On or before April 1, 2021, the Executive Director of the Cannabis Control Board, after consultation with the Secretary of Natural Resources, the Chair of the Natural Resources Board, and the Secretary of Agriculture, Food and Markets, shall recommend to the General Assembly exemptions, specific criteria, or additional requirements under applicable State or local environmental or land use law for cannabis establishments in the State. The recommendations shall address whether additional groundwater quality requirements are required for the cultivation of cannabis in order to protect the groundwater resources of the State from overuse. The Executive Director may provide the recommendations based on a tier, type, or category of cannabis cultivation or cannabis establishment.

(c) On or before April 1, 2021, the Executive Director of the Cannabis Control Board, after consultation with the Commissioner of Public Service and the Chair of the Public Utility Commission, shall recommend to the General Assembly energy or efficiency requirements or standards for the operation of cannabis establishments in the State. The recommendations shall include:

(1) recommended building energy standards for cannabis establishments if different from existing commercial building standards;

(2) recommended energy audits for cannabis establishments, including the recommended frequency of audits and who should perform the audits; and

(3) energy efficiency and conservation measures applicable to cannabis establishments.

(d) In making the recommendations required under subsections (b) and (c) of this section, the Executive Director of the Cannabis Control Board shall recommend the permits, licenses, or standards that a licensed cannabis cultivator or cannabis product manufacturer shall demonstrate, as a condition of licensure, or as a condition for licensure renewal if such standards are not established prior to initial licensure.

(e) On or before April 1, 2021, the Executive Director of the Cannabis Control Board shall submit to the General Assembly the Board's recommendation whether licensed cannabis product manufacturers and dispensaries should be considered food manufacturing establishments or food processors pursuant to 18 V.S.A. § 4301(7) for the purpose of licensing and regulation by the Department of Health.

(f) On or before January 15, 2022, the Executive Director of the Cannabis Control Board shall submit to the General Assembly:

(1) a summary of its work with the Department of Labor, Agency of Commerce and Community Development, the Department of Corrections, and the Director of Racial Equity to develop outreach, training, and employment programs focused on providing economic opportunities to individuals who historically have been disproportionately impacted by cannabis prohibition;

(2) a summary of the experience of other jurisdictions with regulated cannabis markets that allow licensed retail cannabis establishments to accept online ordering for in-store pick-up of items and to deliver to customers and the advantages and disadvantages of allowing such services in Vermont;

(3) recommendations as to whether the General Assembly should consider adding additional types of cannabis licenses, including a craft cooperative license, delivery license, or special event license;

(4) recommendations as to whether cannabis and cannabis products should have a minimum amount of cannabidiol to aid in the prevention of the cannabis-induced psychosis that occurs in some users of cannabis and cannabis products; and

(5) recommendations regarding the display and sale of cannabis-related paraphernalia that is sold by persons who are not licensed as a cannabis establishment or a dispensary.

Sec. 6. CANNABIS CONTROL BOARD; POSITIONS

The following new permanent positions are created in the Cannabis Control Board:

(1) three full-time, exempt members of the Board;

(2) one full-time, exempt Executive Director of the Board; and

(3) one full-time, classified Administrative Assistant.

Sec. 6a. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space for the Cannabis Control Board established in Sec. 2 of this act. This space shall be allocated on or before January 19, 2021.

Sec. 6b. APPROPRIATION

In fiscal year 2021, \$650,000.00 is appropriated from the Cannabis Regulation Fund to the Cannabis Control Board. This appropriation is made in anticipation of receipts in the Fund.

Sec. 6c. CONTINGENT CANNABIS REGULATION FUND DEFICIT

OFFSET; REPAYMENT

(a) To the extent that the Cannabis Regulation Fund has a negative balance at the close of the fiscal year 2022, proceeds in that amount from the tax established in 32 V.S.A. § 7901 in fiscal year 2023 shall be deposited into the Cannabis Regulation Fund.

(b) To the extent that a positive balance exists in the Cannabis Regulation Fund at the close of any fiscal year and any application of excise taxes to the Cannabis Regulation Fund made pursuant to subsection (a) of this section has not been fully repaid to the General Fund, the positive Cannabis Regulation Fund balance shall be transferred to the General Fund.

(c) Thirty percent of any transfers made to the General Fund pursuant to subsection (b) of this section or subdivision 5(a)(2) of Sec. 5 of this act shall be

allocated to substance misuse prevention activities consistent with Sec. 19 of this act.

Sec. 6d. AUDITOR OF ACCOUNTS REPORT

On or before November 15, 2023, the Auditor of Accounts shall report to the General Assembly regarding the organizational structure and membership of the Cannabis Control Board and whether the structure continues to be the most efficient for carrying out the statutory duties of the Board.

Sec. 6e. REPEAL OF CANNABIS CONTROL BOARD

The following are repealed on July 1, 2024:

(1) 7 V.S.A. § 841 (Cannabis Control Board; appointment);

(2) 7 V.S.A. § 842 (Cannabis Control Board Nominating Committee);

and

(3) 7 V.S.A. § 843 (Cannabis Control Board; members; duties).

* * * Cannabis Establishments * * *

Sec. 7. 7 V.S.A. chapter 33 is added to read:

CHAPTER 33. CANNABIS ESTABLISHMENTS

Subchapter 1. General Provisions

§ 861. DEFINITIONS

As used in this chapter:

(1) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another person.

(2) “Applicant” means a person that applies for a license to operate a cannabis establishment pursuant to this chapter.

(3) “Board” means the Cannabis Control Board.

(4) “Cannabis” shall have the same meaning as provided in section 831 of this title.

(5) “Cannabis cultivator” or “cultivator” means a person licensed by the Board to engage in the cultivation of cannabis in accordance with this chapter.

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

(7) “Cannabis product” shall have the same meaning as provided in section 831 of this title.

(8) “Cannabis product manufacturer” or “product manufacturer” means a person licensed by the Board to manufacture cannabis products in accordance with this chapter.

(9) “Cannabis retailer” or “retailer” means a person licensed by the Board to sell cannabis and cannabis products to adults 21 years of age and older for off-site consumption in accordance with this chapter.

(10) “Cannabis testing laboratory” or “testing laboratory” means a person licensed by the Board to test cannabis and cannabis products in accordance with this chapter.

(11) “Cannabis wholesaler” or “wholesaler” means a person licensed by the Board to purchase, process, transport, and sell cannabis and cannabis products in accordance with this chapter.

(12) “Chair” means the Chair of the Cannabis Control Board.

(13) “Characterizing flavor” means a taste or aroma, other than the taste or aroma of cannabis, imparted either prior to or during consumption of a cannabis product. The term includes tastes or aromas relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert, alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or drink or to any conceptual flavor that imparts a taste or aroma that is distinguishable from cannabis flavor but may not relate to any particular known flavor.

(14) “Child-resistant packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging that all children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

(15) “Controls,” “is controlled by,” and “under common control” mean the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise. A person who directly or beneficially owns 10 percent or more equity interest, or the equivalent thereof, of another person shall be deemed to control the person.

(16) “Dispensary” means a business organization licensed pursuant to chapter 37 of this title or 18 V.S.A. chapter 86.

(17) “Enclosed, locked facility” means a building, room, greenhouse, outdoor fenced-in area, or other location that is enclosed on all sides and prevents cannabis from easily being viewed by the public. The facility shall be equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include cannabis cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where cannabis is being grown, processed, packaged, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting

the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(18) “Flavored oil cannabis product” means any oil cannabis product that contains an additive to give it a characterizing flavor.

(19) “Integrated licensee” means a person licensed by the Board to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory in accordance with this chapter.

(20) “Municipality” means a town, city, or incorporated village.

(21) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(22) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(23) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation,

cooperative, or member-managed limited liability company; and a partner of a partnership.

(24) “Small cultivator” means a cultivator with a plant canopy or space for cultivating plants for breeding stock of not more than 1,000 square feet.

§ 862. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter applies to the regulation of cannabis establishments by the Board and shall not apply to activities regulated by 6 V.S.A. chapter 34 (hemp), 18 V.S.A. chapter 86 (therapeutic use of cannabis), or chapters 35 (Medical Cannabis Registry) and 37 (cannabis medical dispensaries) of this title.

§ 863. REGULATION BY LOCAL GOVERNMENT

(a)(1) Prior to a cannabis retailer or an integrated licensee operating within a municipality, the municipality shall affirmatively permit the operation of such cannabis establishments by majority vote of those present and voting by Australian ballot at an annual or special meeting warned for that purpose. A municipality may place retailers or integrated licensees, or both, on the ballot for approval.

(2) A vote to permit the operation of a licensed cannabis retailer or integrated licensee within the municipality shall remain in effect until rescinded by majority vote of those present and voting by Australian ballot at a

subsequent annual or special meeting warned for that purpose. A rescission of the permission to operate a licensed cannabis retailer or integrated licensee within the municipality under this subdivision shall not apply to a licensed cannabis retailer or integrated licensee that is operating within the municipality at the time of the vote.

(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. 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 ordinances regulating signs or public nuisances adopted pursuant to 24 V.S.A. § 2291. The commission may suspend or revoke a local control license for a violation of any condition placed upon the license. The Board shall adopt rules relating to a municipality's issuance of a local control license in accordance with this subsection and the local commissioners shall administer the rules furnished to them by the Board as necessary to carry out the purposes of this section.

(c) Prior to issuing a license to a cannabis establishment under this chapter, the Board shall ensure that the applicant has obtained a local control license from the municipality, if required.

(d) A municipality shall not:

(1) prohibit the operation of a cannabis establishment within the municipality through an ordinance adopted pursuant to 24 V.S.A. § 2291 or a bylaw adopted pursuant to 24 V.S.A. § 4414;

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

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

§ 864. ADVERTISING; PROHIBITION

(a) Purpose. Although the intent of this chapter is to create under State law a legal market for the sale of cannabis that is safer than the existing illegal market for the sale of cannabis, the purpose of this section is to ban the advertising of the sale of cannabis in order to address the multiple public health and safety concerns that legalization alone does not sufficiently address or mitigate, including:

(1) limiting exposure of children to cannabis advertising;

(2) preventing expansion of the cannabis market to new users, whether children or adult, who may be influenced by advertising;

(3) preventing an increase in the number of persons who because of State legalization do not understand that the sale, cultivation, and use of cannabis remains illegal under federal law; and

(4) preventing an increase in the market and amount of cannabis sold in the State.

(b) Prohibition on advertising. To achieve the purposes of subsection (a) of this section, a licensed cannabis establishment is prohibited from advertising.

(c) Exceptions. For purposes of this section, advertising shall not include:

(1) 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;

(2) 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;

(3) 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

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

§ 865. EDUCATION

(a) A licensee shall complete an enforcement seminar every three years conducted by the Board. A license shall not be renewed unless the records of the Board show that the licensee has complied with the terms of this subsection.

(b) A licensee shall ensure that each employee involved in the sale of cannabis or cannabis products to the public completes a training program approved by the Board prior to selling cannabis or cannabis products and at least once every 24 months thereafter. The training shall include information about the health effects of the use of cannabis and cannabis products. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Board. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of not less than one day of the license issued under this chapter.

§ 866. YOUTH

(a) A cannabis establishment licensed pursuant to this chapter shall not dispense or sell cannabis to a person under 21 years of age or employ a person under 21 years of age. The Board may assess civil penalties against or suspend or revoke the license of a cannabis establishment that dispenses or sells cannabis or cannabis products to a person under 21 years of age.

(b) A cannabis establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where cannabis is located. This subsection shall not apply to a registered patient visiting a dispensary even if that dispensary is located in a building that is located on the same premises of a cannabis establishment.

(c) The Board, in consultation with the Department of Health, shall adopt rules in accordance with section 881 of this title to:

(1) prohibit cannabis products or the packaging of such products that are designed to make the product more appealing to persons under 21 years of age;

(2) prohibit the packaging of cannabis and cannabis products that is designed to make the product more appealing to persons under 21 years of age;

(3) require that cannabis products sold by licensed retailers and integrated licensees are contained in child-resistant packaging; and

(4) require that cannabis and cannabis products sold by licensed retailers and integrated licensees are packaged with labels that clearly indicate that the

contents of the package contain cannabis and should be kept away from persons under 21 years of age.

§ 867. STANDARD SYMBOL FOR CANNABIS

The Board shall create a standard symbol that shall be used on all cannabis and cannabis products sold by a licensed cannabis retailer to indicate that the contents of a package contain cannabis.

§ 868. PROHIBITED PRODUCTS

(a) 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) solid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol;

(3) oil cannabis products except for those that are sold prepackaged for use with battery-powered devices;

(4) 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;

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

(6) 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.

§ 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND
USE STANDARDS

(a)(1) 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 or agricultural crop for the purposes of 32 V.S.A. chapter 124, 32 V.S.A. § 9741, or other relevant State law.

(2) Notwithstanding subdivision (1) of this subsection, the cultivation of cannabis on agricultural land and the use of farm buildings to dry or process that cannabis shall not disqualify the land or buildings from the use value appraisal program or constitute “development” under 32 V.S.A. § 3752(5), provided that:

(A) the agricultural land or farm building is enrolled in the use value appraisal program at the time cannabis cultivation commences;

(B) the agricultural land or farm building is not transferred to another owner;

(C) the cultivation, drying, or processing of cannabis is done by a licensed small cultivator on 1,000 square feet or less of agricultural land; and

(D) all other requirements under 32 V.S.A. chapter 124 continue to be met.

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

(c) A cannabis establishment regulated under this chapter shall be subject to regulation under 24 V.S.A. chapter 117 as authorized by this chapter.

(d)(1) The cultivation, processing, and manufacturing of cannabis regulated under this chapter shall comply with the following sections of the Required Agricultural Practices:

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

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

(C) section 12, regarding subsurface tile drainage.

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

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

Subchapter 2. Administration

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–(7) 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 those 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 is necessary to protect the public health, safety, and general welfare; and

(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.

(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.

(B) 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.

(3) Rules concerning product manufacturers shall include:

(A) requirements that a single package of a cannabis product shall not contain more than 50 milligrams of THC, except in the case of:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;

(B) requirements that cannabis products are labeled in a manner that states the number of servings of tetrahydrocannabinol in the product, measured in servings of a maximum of five milligrams per serving, except:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;

(C) requirements that cannabis products are labeled with the date the product was manufactured, the date the product is best used by, the ingredients contained in the product, information on the length of time it typically takes for products to take effect, and appropriate warnings developed by the Board in consultation with the Department of Health;

(D) requirements that a cannabis product is clearly identifiable with a standard symbol adopted by the Board indicating that it contains cannabis;

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

(F) requirements for opaque, child-resistant packaging.

(4) Rules concerning wholesalers shall include any provisions the Board has not addressed in subdivision (a)(1) of this section that are appropriate for safe regulation of wholesalers in accordance with this chapter.

(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 and displayed separately from cannabis and cannabis products;

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

(E) facility inspection requirements and procedures.

(6) Rules concerning testing laboratories shall include:

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

(B) reporting requirements, including requirements for chain-of-custody record keeping; and

(C) procedures for destruction of all cannabis and cannabis products samples.

(7) Rules concerning integrated licensees shall include the provisions provided in subdivisions (1)–(6) of this subsection and any additional provisions the Board deems appropriate for safe regulation of integrated licensees in accordance with this chapter.

(b) The Board shall consult with other State agencies and departments as necessary in the development and adoption of rules where there is shared expertise and duties.

§ 882. SUSPENSION AND REVOCATION OF LICENSES; CIVIL

PENALTIES

(a) The Board shall have the authority to suspend or revoke a cannabis establishment license for violations of this chapter in accordance with rules adopted pursuant to this chapter.

(b) The Board shall have authority to issue civil citations for violations of this chapter in accordance with rules adopted pursuant to this chapter. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

§ 883. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS

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

(b) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a cannabis establishment license because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

§ 884. CANNABIS ESTABLISHMENT IDENTIFICATION CARD

(a) Every owner, principal, and employee of a cannabis establishment shall obtain an identification card issued by the Board.

(b)(1) Prior to issuing the identification card, the Board shall obtain from the Vermont Crime Information Center a copy of the person's Vermont fingerprint-based criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(2) The Board shall adopt rules that set forth standards for determining whether a person should be denied a cannabis establishment identification card because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

(c) Once an identification card application has been submitted, a person may serve as an employee of a cannabis establishment pending the background check, provided the person is supervised in his or her duties by someone who is a cardholder. The Board shall issue a temporary permit to the person for this purpose, which shall expire upon the issuance of the identification card or disqualification of the person in accordance with this section.

(d) An identification card shall expire one year after its issuance or upon the expiration of the cannabis establishment's license, whichever occurs first.

Subchapter 3. Licenses

§ 901. GENERAL PROVISIONS

(a) Except as otherwise permitted by law, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of cannabis or cannabis products without obtaining a license from the Board.

(b) All licenses shall be valid for one year and expire at midnight on the eve of the anniversary of the date the license was issued. A licensee may apply to renew the license annually.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Board and shall be accompanied by the fees provided for in section 909 of this title.

(d)(1) There shall be six types of licenses available:

(A) a cultivator license;

(B) a wholesaler license;

(C) a product manufacturer license;

(D) a retailer license;

(E) a testing laboratory license; and

(F) an integrated license.

(2)(A) The Board shall develop tiers for:

(i) cultivator licenses based on the plant canopy size of the cultivation operation or plant count for breeding stock; and

(ii) retailer licenses.

(B) The Board may develop tiers for other types of licenses.

(3)(A) Except as provided in subdivision (B) of this subdivision (3), an applicant and its affiliates may obtain a maximum of one type of each type of license as provided in subdivisions (1)(A)–(E) of this subsection (d). Each license shall permit only one location of the establishment.

(B) An applicant and its affiliates that are a dispensary registered pursuant to 18 V.S.A. chapter 86 may obtain one integrated license provided in subdivision (1)(F) of this subsection (d) or a maximum of one of each type of license provided in subdivisions (1)(A)–(E) of this subsection (d). An integrated licensee may not hold a separate cultivator, wholesaler, product manufacturer, retailer, or testing laboratory license. An integrated license shall permit only one location for each of the types of activities permitted by the license: cultivation, wholesale operations, product manufacturing, retail sales, and testing.

(e) A dispensary that obtains a retailer license or an integrated license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Board.

(f) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Board. Failure to provide

proof of insurance to the Board, as required, may result in revocation of the license.

(g) All licenses may be renewed according to procedures adopted through rulemaking by the Board.

(h)(1) The following records shall be exempt from public inspection and copying under the Public Records Act and shall be confidential:

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

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

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

§ 902. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) An applicant, principal of an applicant, and person who owns or controls an applicant, who is a natural person:

(1) shall be 21 years of age or older; and

(2) shall consent to the release of his or her criminal and administrative history records.

(b) As part of the application process, each applicant shall submit, in a format prescribed by the Board, an operating plan. The Board shall adopt rules regarding the required components of an application for each type of license.

(c) The Board shall obtain a fingerprint-based Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) the applicant;

(2) each proposed principal; and

(3) each individual who would control the business.

(d) An applicant who is denied a license may appeal the Board's determination in accordance with section 847 of this title.

§ 903. PRIORITIES; BUSINESS AND TECHNICAL ASSISTANCE

(a) The Board shall issue licenses pursuant to this chapter as determined according to a system of priorities adopted by rule by the Board. The system of priorities shall require consideration of criteria, including:

(1) whether the applicants have an existing medical cannabis dispensary license in good standing;

(2) whether the applicants would foster social justice and equity in the cannabis industry by being a minority or women-owned business;

(3) whether the applicants propose specific plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who have historically been disproportionately impacted by cannabis prohibition;

(4) whether applicants propose specific plans to pay employees a living wage and offer benefits;

(5) whether the project incorporates principles of environmental resiliency or sustainability, including energy efficiency; and

(6) the geographic distribution of cannabis establishments based on population and market needs.

(b) The Agency of Commerce and Community Development, in collaboration with the Agency of Agriculture, Food and Markets, shall provide business and technical assistance to Vermont applicants with priority for services based on criteria adopted by the Board in accordance with subsection (a) of this section.

(c) No later than September 1, 2021, the Board shall begin working with the Department of Labor, Agency of Commerce and Community Development, the Department of Corrections, and the Director of Racial Equity to develop outreach, training, and employment programs focused on providing economic opportunities to individuals who historically have been disproportionately impacted by cannabis prohibition.

§ 904. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, process, package, label, transport, test, and sell cannabis to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

(b) Cultivation of cannabis shall occur only in an enclosed, locked facility.

(c) Representative samples of each lot or batch of cannabis intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Board.

(d) Each cultivator shall create packaging for its cannabis.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain and variety of cannabis contained.

(C) The potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving.

(D) A “produced on” date reflecting the date that the cultivator finished producing the cannabis.

(E) Appropriate warnings as prescribed by the Board in rule.

(F) Any additional requirements contained in rules adopted by the Board in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the cannabis is sold to a wholesaler, product manufacturer, or retailer.

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

(e)(1) Only unadulterated cannabis shall be offered for sale. If, upon inspection, the Board finds any violative pesticide residue or other contaminants of concern, the Board shall order the cannabis, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Board's instructions.

(2) Cannabis ordered destroyed or placed on stop-sale shall be clearly separable from salable cannabis. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the cannabis affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days after receiving the order. The appeal shall be made in writing and in accordance with section 847 of this title and shall clearly identify the cannabis affected and the basis for the appeal.

§ 904a. SMALL CULTIVATORS

(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.

§ 905. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator and integrated licensee, and cannabis products from a licensed product manufacturer, integrated licensee, and dispensary; and

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

§ 906. PRODUCT MANUFACTURER LICENSE

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;

(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.

§ 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; and

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

(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) Internet ordering and delivery of cannabis to customers are prohibited.

§ 908. TESTING LABORATORY LICENSE

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport cannabis and cannabis products obtained from a licensed cannabis establishment, dispensary, or a member of the public.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E. coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all cannabis samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

(f) A cannabis establishment that is subject to testing requirements under this chapter or rules adopted pursuant to this chapter shall have its cannabis or cannabis products tested by an independent licensed testing laboratory and not a licensed testing laboratory owned or controlled by the license holder of the cannabis establishment.

§ 909. INTEGRATED LICENSE

(a) An integrated license shall allow the licensee to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory as provided in sections 904–908 of this title.

(b) An integrated license is only available to an applicant and its affiliates that hold a dispensary registration on April 1, 2022. There shall be no more than five total integrated licenses, one for each registered dispensary. Upon compliance with all application procedures and requirements, the Board shall issue an integrated license to the applicant. The licensee shall have the right to renew the license in accordance with rules adopted by the Board.

Sec. 8. IMPLEMENTATION OF LICENSING CANNABIS

ESTABLISHMENTS

(a)(1) The cannabis plant, cannabis product, and useable cannabis possession limits for a registered dispensary set forth in 18 V.S.A. chapter 86 shall no longer apply on and after February 1, 2022. A dispensary shall be permitted to cultivate cannabis and manufacture cannabis products for the purpose of transferring or selling such products to an integrated licensee on or after April 1, 2022 and engaging in the activities permitted by 7 V.S.A. chapter 33.

(2) On or before April 1, 2022, the Board shall begin accepting applications for integrated licenses.

(3) On or before May 1, 2022, the Board shall begin issuing integrated licenses to qualified applicants. An integrated licensee may begin selling cannabis and cannabis products transferred or purchased from a dispensary immediately.

(b)(1) On or before April 1, 2022, the Board shall begin accepting applications for small cultivator licenses and testing laboratories. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before May 1, 2022, the Board shall begin issuing small cultivator and testing laboratories licenses to qualified applicants. Upon

licensing, small cultivators shall be permitted to sell cannabis legally grown pursuant to the license to an integrated licensee and a dispensary licensed pursuant to 18 V.S.A. chapter 86 prior to other types of cannabis establishment licensees beginning operations.

(c)(1) On or before May 1, 2022, the Board shall begin accepting applications for all cultivator licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before June 1, 2022, the Board shall begin issuing all cultivator licenses to qualified applicants.

(d)(1) On or before July 1, 2022, the Board shall begin accepting applications for product manufacturer licenses and wholesaler licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before August 1, 2022, the Board shall begin issuing product manufacturer and wholesaler licenses to qualified applicants.

(e)(1) On or before September 1, 2022, the Board shall begin accepting applications for retailer licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before October 1, 2022, the Board shall begin issuing retailer licenses to qualified applicants and sales of cannabis and cannabis products by licensed retailers to the public shall be allowed immediately.

* * * Medical Cannabis Registry * * *

Sec. 9. 7 V.S.A. chapter 35 is added to read:

CHAPTER 35. MEDICAL CANNABIS REGISTRY

§ 951. DEFINITIONS

As used in this chapter:

(1) “Board” means the Cannabis Control Board.

(2) “Cannabis” has the same meaning as provided in section 831 of this title.

(3) “Cannabis product” has the same meaning as provided in section 831 of this title.

(4) “Dispensary” means a business organization licensed pursuant to chapter 37 of this title or 18 V.S.A. chapter 86.

(5)(A) “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

(6) “Immature cannabis plant” means a female cannabis plant that has not flowered and that does not have buds that may be observed by visual examination.

(7) “Mature cannabis plant” means a female cannabis plant that has flowered and that has buds that may be observed by visual examination.

(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, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms;

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

(C) 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.

(9) “Registry” means the Vermont Medical Cannabis Registry.

§ 952. REGISTRY

(a) The Board shall establish and manage the Vermont Medical Cannabis Registry for the purpose of allowing persons with qualifying medical conditions and their caregivers to obtain privileges regarding cannabis and cannabis product possession, use, cultivation, and purchase.

(b) A person who is a registered patient or a registered caregiver on behalf of a patient may:

(1) Cultivate not more than two mature and seven immature cannabis plants. Any cannabis harvested from the plants shall not count toward the two-ounce possession limit in subdivision (2) of this subsection, provided it is stored in an indoor facility on the property where the cannabis was cultivated and reasonable precautions are taken to prevent unauthorized access to the cannabis.

(2) Possess not more than two ounces of cannabis.

(3) Purchase cannabis and cannabis products at a licensed medical cannabis dispensary. Pursuant to chapter 37 of this title, a dispensary may offer goods and services that are not permitted at a cannabis establishment licensed pursuant to chapter 33 of this title.

(c)(1) Individual names and identifying information about patients and caregivers on the Registry are exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Notwithstanding

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

(2) In response to a person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution, the Board may verify the identities and registered property addresses of the registered patient and the patient’s registered caregiver. The law enforcement officer or agency shall keep confidential any identities and addresses received pursuant to this subdivision.

(d) The Board shall establish an application process through rulemaking. The Board shall approve or deny the application for registration in writing within 30 days from receipt of a completed registration application.

§ 953. PATIENTS

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

(b) An application by a person under 18 years of age shall be signed by both the applicant and the applicant’s parent or guardian.

§ 954. CAREGIVERS

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

(b)(1) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a caregiver card because of his or her criminal history record. An applicant shall not be denied solely on the basis of a criminal conviction that is not listed in 13 V.S.A. chapter 25 or 28.

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

(c) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a cannabis establishment license because of his or her criminal history record

(d)(1) Except as provided in subdivision (2) of this subsection, a caregiver shall serve only one patient at a time, and a patient shall have only one registered caregiver at a time. A patient may serve as a caregiver for one other patient.

(2) A patient who is under 18 years of age may have two caregivers.

§ 955. REGISTRATION; FEES

(a) A registration card shall expire one year 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 fees for annual registration for patients and caregivers. Fees shall be deposited in the 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. 10. IMPLEMENTATION OF MEDICAL CANNABIS REGISTRY

(a) On March 1, 2022, patients and caregivers who are on the Department of Public Safety’s Medical Marijuana Registry pursuant to 18 V.S.A. chapter 86 shall transfer to the Cannabis Control Board’s Medical Cannabis Registry pursuant to 7 V.S.A. chapter 35. At such time, those patients and caregivers will be entitled to the privileges afforded registrants under 7 V.S.A. chapter 35 and rules adopted by the Board pursuant to 7 V.S.A. chapter 35.

(b) The registration card of a patient or caregiver who transfers to the new Registry shall expire on the date of the registration card and a patient or

caregiver who wishes to continue participation on the Registry shall renew the registration card under rules adopted by the Board.

Sec. 11. REPEAL

18 V.S.A. chapter 86 (therapeutic use of cannabis) is repealed.

* * * Medical Cannabis Dispensaries * * *

Sec. 12. 7 V.S.A. chapter 37 is added to read:

CHAPTER 37. MEDICAL CANNABIS DISPENSARIES

§ 971. INTENT; PURPOSE

(a) It is the intent of the General Assembly to provide a well-regulated system of licensed medical cannabis dispensaries for the purpose of providing cannabis, cannabis products, and related services to patients and caregivers who are registered on the Medical Cannabis Registry pursuant to chapter 35 of this title. Vermont first authorized dispensaries in 2011, and it is the intent of the General Assembly that dispensaries continue to provide unique goods and services to registered patients and caregivers for therapeutic purposes in a market that also allows cannabis establishments licensed pursuant to chapter 33 of this title.

(b) A dispensary licensed pursuant to this chapter may engage in practices that are not permitted for a cannabis establishment. As such, a dispensary may:

(1) be vertically integrated under one license;

- (2) sell tax-free cannabis and cannabis products to patients and caregivers;
- (3) deliver cannabis and cannabis products to patients and caregivers;
- (4) allow patients and caregivers to purchase cannabis and cannabis products without leaving their vehicles;
- (5) produce and sell cannabis and cannabis products that have a higher THC content than is permitted for a cannabis establishment;
- (6) produce and sell cannabis products that may not otherwise be permitted for a cannabis establishment, but that would be appropriate for use by a patient as determined by the Board through rulemaking; and
- (7) sell larger quantities of cannabis and cannabis products than is permitted for a cannabis establishment.

§ 972. DEFINITIONS

As used in this chapter:

- (1) “Board” means the Cannabis Control Board.
- (2) “Cannabis” has the same meaning as provided in section 831 of this title.
- (3) “Cannabis product” has the same meaning as provided in section 831 of this title.
- (4) “Dispensary” means a business organization licensed under this chapter or 18 V.S.A. chapter 86.

(5) “Registry” means the Vermont Medical Cannabis Registry.

§ 973. DISPENSARY LICENSE

(a) A dispensary licensed pursuant to this chapter may:

(1) cultivate, package, label, test, and transport cannabis;

(2) produce, package, label, test, and transport cannabis products;

(3) sell and deliver cannabis and cannabis products to patients and caregivers registered under chapter 35 of this title;

(4) acquire, purchase, or borrow cannabis, cannabis products, and services from another licensed Vermont medical cannabis dispensary or give, sell, or lend cannabis, cannabis products, and services to another licensed Vermont medical cannabis dispensary; and

(5) purchase cannabis and cannabis products from a cannabis establishment licensed pursuant to chapter 33 of this title.

(b)(1) The following records shall be exempt from public inspection and copying under the Public Records Act and shall be confidential:

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

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

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

§ 974. RULEMAKING

(a)(1) The Board shall adopt rules to implement and administer this chapter. In adoption of rules, the Board shall strive for consistency with rules adopted for cannabis establishments pursuant to chapter 33 of this title where appropriate. No rule shall be more restrictive than any rule adopted by the Department of Public Safety pursuant to 18 V.S.A. chapter 86.

(2) Rules 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 dispensary, 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 975 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) facility inspection requirements and procedures;

(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 those 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 is 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) 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;

(S) standards for indoor cultivation of cannabis;

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

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

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

(W) requirements that cannabis products are labeled in a manner that states the number of servings of tetrahydrocannabinol in the product, measured in servings of a maximum of five milligrams per serving, except cannabis products that are not consumable, including topical preparations;

(X) requirements that cannabis products are labeled with the date the product was manufactured, the date the product is best used by, the ingredients contained in the product, information on the length of time it typically takes for products to take effect, and appropriate warnings developed by the Board in consultation with the Department of Health;

(Y) requirements that a cannabis product is clearly identifiable with a standard symbol adopted by the Board indicating that it contains cannabis;

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

(AA) requirements for opaque, child-resistant packaging;

(BB) requirements for verification of a customer's Registry status;

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

(DD) requirements that if the dispensary sells hemp or hemp products, the hemp and hemp products are clearly labeled as such and displayed separately from cannabis and cannabis products;

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

(FF) facility inspection requirements and procedures;

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

(HH) reporting requirements, including requirements for chain-of-custody record keeping; and

(II) procedures for destruction of all cannabis and cannabis products samples.

(b) The Board shall consult with other State agencies and departments as necessary in the development and adoption of rules where there is shared expertise and duties.

§ 975. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS

(a) The Board shall obtain from the Vermont Crime Information Center a copy of a license applicant's fingerprint-based Vermont criminal history

records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(b) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a medical cannabis dispensary license because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify a candidate.

§ 976. DISPENSARY IDENTIFICATION CARD

(a) Every owner, principal, and employee of a dispensary shall obtain an identification card issued by the Board.

(b)(1) Prior to issuing the identification card, the Board shall obtain from the Vermont Crime Information Center a copy of the person's fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(2) The Board shall adopt rules that set forth standards for determining whether a person should be denied a medical cannabis dispensary identification card because his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify a candidate.

(c) Once an identification card application has been submitted, a person may serve as an employee of a dispensary pending the background check, provided the person is supervised in his or her duties by someone who is a cardholder. The Board shall issue a temporary permit to the person for this purpose, which shall expire upon the issuance of the identification card or disqualification of the person in accordance with this section.

(d) An identification card shall expire one year after its issuance or upon the expiration of the dispensary's license, whichever occurs first.

§ 977. FEES

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

- (1) application fees;
- (2) annual license fees; and
- (3) annual renewal fees.

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

§ 978. ADVERTISING; PROHIBITION

(a) Purpose. The purpose of this section is to ban advertising of cannabis for medical symptom relief in order to address the multiple public health and safety concerns that such a program alone does not sufficiently address or mitigate, including:

- (1) limiting exposure of children to cannabis advertising;

(2) preventing expansion of the use of cannabis for medical symptom relief to new patients, whether children or adults, who may be influenced by advertising; and

(3) preventing misinformation about the benefits of cannabis for medical symptom relief.

(b) Prohibition on advertising. To achieve the purposes of subsection (a) of this section, a licensed dispensary is prohibited from advertising.

(c) For purposes of this section, advertising shall not include:

(1) 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;

(2) 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;

(3) 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

(4) a sign attached to the premises of a dispensary that merely identifies the location of the dispensary.

§ 979. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND USE STANDARDS

(a)(1) A dispensary 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 or agricultural crop for the purposes of 32 V.S.A. chapter 124, 32 V.S.A. § 9741, or other relevant State law.

(2) Notwithstanding subdivision (1) of this subsection, the cultivation of cannabis on agricultural land and the use of farm buildings to dry or process that cannabis shall not disqualify the land or buildings from the use value appraisal program or constitute “development” under 32 V.S.A. § 3752(5), provided that:

(A) the agricultural land or farm building is enrolled in the use value appraisal program at the time cannabis cultivation commences;

(B) the agricultural land or farm building is not transferred to another owner;

(C) the cultivation, drying, or processing of cannabis is done by a license on 1,000 square feet or less of agricultural land; and

(D) all other requirements under 32 V.S.A. chapter 124 continue to be met.

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

(c) A dispensary regulated under this chapter shall be subject to regulation under 24 V.S.A. chapter 117 as authorized by this chapter.

(d)(1) The cultivation, processing, and manufacturing of cannabis regulated under this chapter shall comply with the following sections of the Required Agricultural Practices:

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

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

(C) section 12, regarding subsurface tile drainage.

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

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

Sec. 13. IMPLEMENTATION OF MEDICAL CANNABIS REGISTRIES

(a) On March 1, 2022, regulation of medical marijuana dispensaries that are registered pursuant to 18 V.S.A. chapter 86 shall transfer from the Department of Public Safety to the Cannabis Control Board. At such time, those registered dispensaries shall operate pursuant to 7 V.S.A. chapter 37 and the rules adopted by the Board pursuant to chapter 37.

(b) The registration certificate of a dispensary that transfers to the Board shall expire on the date of issue of the certificate and a dispensary that wishes to continue operating as a dispensary shall apply to the Board for a dispensary license pursuant to 7 V.S.A. chapter 37 and the rules adopted by the Board pursuant to chapter 37.

* * * Creation of Excise Tax * * *

Sec. 14. 7 V.S.A. chapter 207 is added to read:

CHAPTER 207. CANNABIS EXCISE TAX

§ 7901. DEFINITIONS

As used in this chapter:

(1) “Cannabis” has the same meaning as in section 831 of this title.

(2) “Cannabis cultivator” has the same meaning as in section 861 of this title.

(3) “Cannabis product” has the same meaning as in section 831 of this title.

(4) “Cannabis product manufacturer” has the same meaning as in section 861 of this title.

(5) “Cannabis retailer” has the same meaning as in section 861 of this title.

(6) “Cannabis wholesaler” has the same meaning as in section 861 of this title.

(7) “Integrated licensee” has the same meaning as in section 861 of this title.

(8) “Retail sale” or “sold at retail” means any sale for any purpose other than for resale by a cannabis retailer or integrated licensee.

(9) “Sales price” has the same meaning as in section 9701 of this title.

§ 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, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers.

§ 7903. LIABILITY FOR TAX

(a) Any tax collected in accordance with this chapter shall be deemed to be held by the retailer or integrated licensee in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as clearly to indicate the amount of tax collected and that the same are the property of the State of Vermont.

(b) Every retailer or integrated licensee required to collect and remit the tax under this chapter to the Commissioner shall be personally and individually liable for the amount of such tax together with such interest and penalty as has accrued under the provisions of section 3202 of this title. If the retailer or integrated licensee is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect and remit tax to the Commissioner of Taxes as required in this chapter.

(c) A retailer or integrated licensee shall have the same rights in collecting tax from his or her purchaser or regarding nonpayment of tax by the purchaser as if the tax were a part of the purchase price of cannabis or cannabis products and payable at the same time; provided, however, if the retailer or integrated licensee required to collect tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer or integrated licensee to collect tax and shall have the right to intervene in such action or proceeding.

(d) A retailer or integrated licensee required to collect tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer or integrated licensee for tax collected unless the purchaser

has provided written notice to a retailer or integrated licensee and the retailer or integrated licensee has had 60 days to respond.

§ 7904. RETURNS; RECORDS

(a) Any retailer or integrated licensee required to collect the tax imposed by this chapter shall, on or before the 25th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer or integrated licensee, a statement containing its name and place of business, the total amount of sales subject to the cannabis excise tax made in the preceding month, and any information required by the Department of Taxes, along with the total tax due. Retailers and integrated licensees shall not remit the tax collected to the Department of Taxes in cash absent the issuance of a waiver by the Commissioner of Taxes, and the Commissioner may require that returns be submitted electronically.

(b) Every retailer and integrated licensee shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. The records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes cannabis or a cannabis product is subject to the cannabis excise tax imposed by this chapter on the entire sales price of the

bundled transaction. If there is a conflict with the bundling transaction provisions applicable to another tax type, this section shall apply.

(b) If the sales price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the products that are nontaxable is subject to the tax imposed by this chapter unless the retailer or integrated licensee can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business, and any discounts applied to the bundle must be attributed to the products that are nontaxable under this chapter.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products is or contains cannabis; or

(2) cannabis or a cannabis product that is provided free of charge with the required purchase of another product.

§ 7906. LICENSE

(a) Any retailer or integrated licensee required to collect tax imposed by this chapter must apply for and receive a cannabis retail tax license from the Commissioner for each place of business within the State where he or she sells cannabis or cannabis products prior to commencing business. The

Commissioner shall issue without charge a license, or licenses, empowering the retailer or integrated licensee to collect the cannabis excise tax, provided that a retailer or integrated licensee’s application is properly submitted and the retailer or integrated licensee is otherwise in compliance with applicable laws, rules, and provisions.

(b) Each cannabis retail tax license shall state the place of business to which it is applicable and be prominently displayed in the place of business. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant ceasing to do business in the place named. A cannabis retail tax license shall be separate from and in addition to any licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title.

(c) The Cannabis Control Board may require the Commissioner of Taxes to suspend or revoke the tax licenses issued under this section for any retailer or integrated licensee that fails to comply with 7 V.S.A. chapter 33 or any rules adopted by the Board.

§ 7907. ADMINISTRATION OF THE CANNABIS EXCISE TAX

(a) The Commissioner of Taxes shall administer and enforce this chapter. The Commissioner may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out such administration and enforcement.

(b) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use tax in chapter 233 of this title shall apply to the cannabis excise tax imposed by this chapter.

§ 7908. STATUTORY PURPOSE

The statutory purpose of the exemption for cannabis and cannabis products sold by any dispensary as authorized under 7 V.S.A. chapter 37 in subdivision 7902(d)(2) of this title is to lower the cost of medical products in order to support the health and welfare of Vermont residents.

Sec. 14a. 32 V.S.A. § 3102(d)(3) is amended to read:

(3) to any person who inquires, provided that the information is limited to whether a person is registered to collect Vermont income withholding, sales and use, ~~or~~ meals and rooms, or cannabis excise tax; whether a person is in good standing with respect to the payment of these taxes; whether a person is authorized to buy or sell property free of tax; or whether a person holds a valid license under chapter 205 or 239 of this title or 10 V.S.A. § 1942;

* * * Sales Tax Exemption * * *

Sec. 15. 32 V.S.A. § 9701(31) is amended to read:

(31) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional

value. “Food and food ingredients” does not include alcoholic beverages, tobacco, cannabis and cannabis products as defined under 7 V.S.A. § 831, or soft drinks.

Sec. 16. 32 V.S.A. § 9741(53) is added to read:

(53) 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, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers.

* * * Tax Expenditure; Statutory Purpose * * *

Sec. 17. 32 V.S.A. § 9706(mm) is added to read:

(mm) The statutory purpose of the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9741(53) of this title is to lower the cost of medical products sold by any dispensary as authorized under 7 V.S.A. chapter 37 in order to support the health and welfare of Vermont residents.

* * * Meals and Rooms Tax * * *

Sec. 17a. 32 V.S.A. § 9202(10) is amended to read:

(10) “Taxable meal” means:

* * *

(D) “Taxable meal” shall not include:

(i) Food or beverage, other than that taxable under subdivision (10)(C) of this section, that is a grocery-type item furnished for take-out: whole pies or cakes, loaves of bread; single-serving bakery items sold in quantities of three or more; delicatessen and nonprepackaged candy sales by weight or measure, except party platters; whole uncooked pizzas; pint or larger closed containers of ice cream or frozen confection; eight ounce or larger containers of salad dressings or sauces; maple syrup; quart or larger containers of cider or milk.

* * *

(iii) Cannabis or cannabis products as defined under 7 V.S.A.

§ 831.

Sec. 17b. 32 V.S.A. § 9201(n) is added to read:

(n) The statutory purpose for the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9202(10)(D)(iii) of this title is to avoid having both the meals and rooms tax and the cannabis excise tax apply to edible cannabis products.

* * * Use of Sales and Use Tax Revenue * * *

Sec. 17c. DEDICATED USE OF SALES AND USE TAX ON CANNABIS

Notwithstanding 16 V.S.A. § 4025(b), revenue from the sales and use tax imposed by 32 V.S.A. chapter 233 on retail sales of cannabis or cannabis products in this State shall be used to fund a grant program to start or expand

afterschool and summer learning programs, with a focus on increasing access in underserved areas of the State.

Sec. 17d. ANNUAL BUDGETING OF SALES AND USE TAX REVENUE

On or before November 15, 2021 and on or before each subsequent November 15, the Agency of Education shall submit to the General Assembly a plan to fund grants in furtherance of the purposes of Sec. 17c of this act. The grants shall be in an amount equal to the official forecasted revenues to be raised from the sales and use tax imposed by 32 V.S.A. chapter 233 on cannabis or cannabis products in this State. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the plan to be made under this subsection.

* * * Income Tax Deduction * * *

Sec. 18. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal

Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

* * *

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income ~~which~~ that results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction or credit that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 18 V.S.A. chapter 86 or 7 V.S.A. chapter 33 or 37, but for 26 U.S.C. § 280E.

* * *

(21) “Taxable income” means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

* * *

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; ~~and~~

(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; and

(v) the amount of any federal deduction or credit that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 18 V.S.A. chapter 86 or 7 V.S.A. chapter 33 or 37, but for 26 U.S.C. § 280E; and

* * *

Sec. 18a. 32 V.S.A. § 5811(18)(A)(ii)(III) is amended to read:

(III) any federal deduction or credit that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under ~~18 V.S.A. chapter 86 or 7 V.S.A.~~ chapter 33 or 37, but for 26 U.S.C. § 280E.

Sec. 18b. 32 V.S.A. § 5811(21)(B)(v) is amended to read:

(v) the amount of any federal deduction or credit that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under ~~18 V.S.A. chapter 86 or 7~~ V.S.A. chapter 33 or 37, but for 26 U.S.C. § 280E; and

Sec. 18c. LEGISLATIVE INTENT

It is the intent of the General Assembly to create an income tax deduction for dispensaries and cannabis establishments for the taxable years beginning on and after January 1, 2022. This deduction shall be available to dispensaries irrespective of their regulation under 18 V.S.A. chapter 86 or 7 V.S.A. chapter 37 and to cannabis establishments licensed and engaged in the activities permitted under 7 V.S.A. chapter 33.

* * * Substance Misuse Prevention * * *

Sec. 19. SUBSTANCE MISUSE PREVENTION FUNDING

Thirty percent of the revenues raised by the cannabis excise tax imposed by 32 V.S.A. § 7901, not to exceed \$10,000,000.00 per fiscal year, shall be used for the purpose of funding substance misuse prevention programming.

* * * Impaired Driving * * *

Sec. 20. 20 V.S.A. § 2358(f) is added to read:

(f) The criteria for all minimum training standards under this section shall include Advanced Roadside Impaired Driving Enforcement training as approved by the Vermont Criminal Justice Training Council. On or before December 31, 2021, law enforcement officers shall receive a minimum of 16 hours of training as required by this subsection.

Sec. 21. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(3) “Evidentiary test” means a breath, saliva, or blood test ~~which that~~ indicates the person’s alcohol concentration or the presence of other drug and ~~which that~~ is intended to be introduced as evidence.

* * *

Sec. 22. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF

ALCOHOL OR OTHER SUBSTANCE; CRIMINAL REFUSAL;

ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person’s alcohol concentration is:

(A) 0.08 or more; ~~or~~

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial vehicle as defined in subdivision 4103(4) of this title; or

(2) when the person is under the influence of alcohol; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug; ~~or~~

~~(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.~~

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in an accident or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol or drugs in ~~the~~ his or her system.

* * *

(i) Evidence of the results of a standardized field sobriety test conducted by a law enforcement officer trained in Advanced Roadside Impaired Driving Enforcement or a certified Drug Recognition Expert's systematic evaluation of observable signs and symptoms of a person charged with a violation of this

section shall be presumptively admissible at trial to demonstrate whether or not the person was operating under the influence in violation of this section.

Sec. 23. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD
ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of blood. If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision (2) shall be obtained pursuant to subsection (f) of this section.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, or under the combined influence of alcohol and a drug, the person is deemed to have given consent to providing of an evidentiary sample of saliva. A saliva test sought pursuant to this subdivision (3) shall be obtained pursuant to subsection (f) of this section. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person's body and shall not be used to extract DNA information.

(4) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

~~(4)~~(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

(b) A refusal to take a breath test may be introduced as evidence in a criminal proceeding.

(c) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has a right as limited in this subsection to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and not later than 30 minutes after the time of the initial attempt to contact the attorney. The person must make a decision about whether to submit to the test or tests at the expiration of the 30 minutes, regardless of whether a consultation took place.

(d) At the time a test is requested, the person shall be informed of the following statutory information:

(1) Vermont law authorizes a law enforcement officer to request a test to determine whether the person is under the influence of alcohol or other drug.

(2) If the officer's request is reasonable and testing is refused, the person's license or privilege to operate will be suspended for at least six months.

(3) If a test is taken and the results indicate that the person is under the influence of alcohol or other drug, the person will be subject to criminal charges and the person's license or privilege to operate will be suspended for at least 90 days.

(4) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has the limited right to consult an attorney before

deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and ~~no~~ not later than 30 minutes from the time of the initial attempt to contact the attorney, regardless of whether a consultation took place. The person also has the right to have additional tests made by someone of the person's own choosing at the person's own expense. The person shall also be informed of the location of one or more facilities available for drawing blood.

(5) A person who is requested by a law enforcement officer to submit to an evidentiary test administered with an infrared breath-testing instrument may elect to have a second infrared test administered immediately after receiving the results of the first test.

(6) If the person refuses to take an evidentiary test, the refusal may be offered into evidence against the person at trial, whether or not a search warrant is sought. The person may be charged with the crime of criminal refusal if the person:

(A) has previously been convicted of a violation of section 1201 of this title; or

(B) is involved in an accident or collision resulting in serious bodily injury or death to another, in which case the court may issue a search warrant and order the person to submit to a blood test, the results of which may be offered into evidence against the person at trial.

* * *

(f)(1) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in an accident or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. ~~If Pursuant to subdivision (d)(6) of this section, if~~ a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary ~~breath~~ sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

(2) If an evidentiary saliva test is sought from a person pursuant to subdivision (a)(3) of this section, a law enforcement officer may apply for a search warrant pursuant Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of saliva for the evidentiary test. Pursuant to subdivision (d)(6) of this section, if a saliva sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test.

(g) The Defender General shall provide statewide 24-hour coverage seven days a week to ~~assure~~ ensure that adequate legal services are available to persons entitled to consult an attorney under this section.

Sec. 24. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND
VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Training Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b)(1) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, ~~or~~ laboratory assistant, intermediate or advanced emergency medical technician, or paramedic acting at the request of a law enforcement officer may withdraw blood for the purpose of determining the presence of alcohol or ~~other~~ another drug. ~~This limitation does~~ Any withdrawal of blood shall not be taken at roadside. These limitations do not apply to the taking of a breath sample. A medical facility or business may not charge more than \$75.00 for services rendered when an individual is brought to a facility for the sole purpose of an evidentiary blood sample or when an

emergency medical technician or paramedic draws an evidentiary blood sample.

(2) A saliva sample may be obtained by a person authorized by the Vermont Criminal Justice Training Council to collect a saliva sample for the purpose of evidentiary testing to determine the presence of a drug. Any saliva sample obtained pursuant to this section shall not be taken at roadside.

(c) ~~When a breath test which is intended to be introduced in evidence is taken with a crimper device or when~~ blood or saliva is withdrawn at an officer's request, a sufficient amount of ~~breath~~ saliva or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample, and shall be held for at least 45 days from the date the sample was taken. At any time during that period the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath, saliva, or blood test ~~administered using an infrared breath testing instrument~~, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared breath testing instrument analyzes the sample and does not indicate the sample is deficient. ~~Analysis~~ An analysis of the person's breath saliva or blood ~~which~~ that is available to that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety. The Department of Public Safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary breath alcohol screening ~~test~~. The results of this preliminary screening ~~test~~ may be used for the purpose of deciding whether an arrest

should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening, ~~test~~ additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

(g) The Office of the Chief Medical Examiner shall report in writing to the Department of Motor Vehicles the death of any person as the result of an accident involving a vehicle and the circumstances of such accident within five days of such death.

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

(i) The Commissioner of Public Safety shall adopt emergency rules relating to the operation, maintenance, and use of preliminary alcohol screening devices for use by law enforcement officers in enforcing the provisions of this title. The ~~commissioner~~ Commissioner shall consider relevant standards of the National Highway Traffic Safety Administration in adopting such rules. Any preliminary alcohol screening device authorized for use under this title shall be

on the qualified products list of the National Highway Traffic Safety Administration.

* * *

Sec. 25. 23 V.S.A. § 1203a(b) is amended to read:

(b) Arrangements for a blood test shall be made by the person submitting to the evidentiary breath or saliva test, by the person's attorney, or by some other person acting on the person's behalf unless the person is detained in custody after administration of the evidentiary test and upon completion of processing, in which case the law enforcement officer having custody of the person shall make arrangements for administration of the blood test upon demand but at the person's own expense.

Sec. 26. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

* * *

(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of alcohol or under the combined influence of alcohol and another drug, nor shall they be construed as requiring that evidence of the amount of alcohol or drug in the person's blood, breath, urine, or saliva must be presented.

Sec. 27. DEPARTMENT OF PUBLIC SAFETY; DRUG RECOGNITION
EXPERTS; REPORT

On or before March 1, 2022, the Department of Public Safety shall report to the House and Senate Committees on Judiciary and on Government Operations on how to:

(1) achieve geographic equity in Drug Recognition Expert availability to conduct roadside evaluations of drivers suspected of violating 23 V.S.A. § 1201 across Vermont; and

(2) whether to expand the availability of the Drug Recognition Expert program beyond law enforcement officers to other public safety officials to the extent authorized by the national qualification standards of the International Association of Chiefs of Police and the National Highway Traffic Safety Administration.

Sec. 28. DEPARTMENT OF PUBLIC SAFETY; SALIVA
TESTING DEVICE; REPORT

Upon the identifying a threshold level of concentration of a psychoactive metabolite of cannabis in a person's bloodstream to establish impairment and approving a chemical testing device for roadside use capable of demonstrating such a threshold level of concentration of such psychoactive metabolite of cannabis in a person's system, the Department of Public Safety shall report to the House and Senate Committees on Judiciary and on Government Operations

on a proposal to implement the use of such a device to evaluate individuals suspected of operating under the influence of marijuana in violation of 23 V.S.A. § 1201.

* * * Miscellaneous Cannabis Provisions * * *

Sec. 29. 6 V.S.A. § 567 is amended to read:

§ 567. AGENCY OF AGRICULTURE, FOOD AND MARKETS; TESTING

(a) The Agency of Agriculture, Food and Markets shall establish a cannabis quality control program for the following purposes:

(1) to develop potency and contaminant testing protocols for hemp, ~~and~~ hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831;

(2) to verify cannabinoid label guarantees of hemp, ~~and~~ hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp, ~~and~~ hemp-infused products, cannabis, and cannabis products as defined in 7 V.S.A. § 831; and

(4) to certify testing laboratories that can offer the services in subdivisions (2) and (3) of this ~~section~~ subsection.

(b) For purposes of this section, a laboratory operating under a dispensary registration pursuant to 18 V.S.A. chapter 86 that offers the services in

subdivisions (2) and (3) of subsection (a) of this section on January 1, 2021 shall be deemed certified by the Agency.

(c) The cost of a test of a product produced at a registered dispensary and submitted to the Agency for the purpose of compliance testing to enforce the provisions of 18 V.S.A. chapter 86 shall be paid by the Department of Public Safety from the registration fee fund provided in 18 V.S.A. § 4474a.

Sec. 30. 18 V.S.A. § 4230a(a)(2)(A) is amended to read:

(2)(A) A person shall not consume ~~marijuana~~ cannabis in a public place. “Public place” ~~means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law~~ has the same meaning as provided by 7 V.S.A. § 831.

Sec. 31. 18 V.S.A. § 4230 is amended to read:

§ 4230. ~~MARIJUANA~~ CANNABIS

* * *

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling ~~marijuana~~ cannabis or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing more than one ounce of ~~marijuana~~ cannabis or five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of ~~marijuana~~ cannabis or 2.8 ounces or more of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(4) A person 21 years of age or older may dispense one ounce or less of cannabis or five grams or less of hashish to another person who is 21 years of age or older provided that the dispensing is not advertised or promoted to the public.

Sec. 32. STATUTORY REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall replace “marijuana” with “cannabis” throughout the statutes as needed for consistency with this act, provided the revisions have no other effect on the meaning of the affected statutes.

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

(a) This section and Secs. 1 (Title 7 redesignation), 2 (cannabis chapter), 3 (implementation of the Cannabis Control Board), 4 (implementation of

rulemaking by the Cannabis Control Board), 5 (Cannabis Control Board; fees), 6 (creation of Board positions), 6a (space allocation), 6b (appropriation), 7 (cannabis establishments chapter), 8 (implementation of licensing of cannabis establishments), 17d (annual budgeting of sales and use tax revenue), 19 (Substance Misuse Prevention Fund), 20 (Advanced Roadside Impaired Driving Enforcement training), 26 (permissive inference), 27 (drug recognition experts report), 28 (saliva testing device report), 29 (Agency of Agriculture, Food and Markets; testing), 30 (public place definition), 31 (cannabis dispensing), and 32 (statutory revision authority) shall take effect on passage.

(b) The following shall take effect June 1, 2021:

(1) In Sec. 9 (Medical Cannabis Registry chapter), 7 V.S.A. § 956 (rulemaking); and

(2) Sec. 12 (Medical Cannabis Dispensaries), 7 V.S.A. § 974 (rulemaking).

(c) Secs. 10 (implementation of Medical Cannabis Registry), 13 (implementation of medical cannabis dispensaries), 18 (income tax deduction), 18c (legislative intent), 21 (definition of evidentiary test), 22 (operating vehicle under the influence of alcohol or other substance), 23 (consent to taking of tests to determine blood alcohol content or presence of other drug), 24 (administration of tests), and 25 (independent testing of evidentiary sample) shall take effect January 1, 2022.

(d) Secs. 9 (Medical Cannabis Registry chapter), except for 7 V.S.A. § 956 (rulemaking); 11 (Repeal); 12 (Medical Cannabis Dispensaries), except for 7 V.S.A. § 974 (rulemaking); 14 (creation of excise tax); 14a (tax license disclosure); 15 (sales tax exemption); 16 (tax exemption); 17 (tax expenditure); 17a (meals and rooms tax); 17b (meals and rooms tax expenditure); and 17c (dedicated use of sales and use tax revenue) shall take effect March 1, 2022.

(e) Sec. 6d (Auditor of Accounts report) shall take effect on July 1, 2022.

(f) Secs. 18a (net income definition) and 18b (taxable income definition) shall take effect January 1, 2023

(g) Sec. 6e (repeal of Cannabis Control Board) shall take effect on January 1, 2024.

(h) Sec. 6c (contingent Cannabis Regulation Fund deficit offset) shall take effect on July 1, 2024.

COMMITTEE ON THE PART OF
THE SENATE

SEN. RICHARD W. SEARS

SEN. JEANETTE K. WHITE

SEN. JOSEPH C. BENNING

COMMITTEE ON THE PART OF
THE HOUSE

REP. JOHN M. GANNON

REP. ROBERT B. LACLAIR

REP. JANET ANCEL