



## **RURAL VERMONT STATEMENT ON S.54: CANNABIS TAXATION & REGULATION**

*Updated February 2020*

Rural Vermont supports ending the prohibition of cannabis; providing a just, equitable, and accessible economic opportunity for Vermont farmers, small businesses, and community members in this marketplace; as well as adequately reforming the criminal justice system and providing reparations to communities and individuals harmed throughout prohibition. ***For these reasons among others, Rural Vermont opposes S.54*** - this bill does not ensure social and economic equity, it does not provide adequate criminal justice system reform and support for disproportionately affected communities, it lays the way for further market concentration and consolidation, and does not provide fair and equitable access to our community members, and small farms and businesses. In this Statement, we include some of the specific concerns we have – and some suggestions for meaningful change which may contribute to a future bill which embodies the principles and outcomes we consider critical and necessary. The cultivation of cannabis is fundamentally an agricultural activity, yet S.54 has not been considered by or commented on by an Agricultural Committee, and the broader agricultural communities' interests and voices are not being considered in, or integrated into, the creation of this bill. Crucial decisions in this legislation are unnecessarily left to the unelected Cannabis Control Board (CCB). We encourage legislators to seek further testimony to gain differentiated understanding of the implications of S.54 for outdoor cultivation of cannabis as opposed to indoor cultivation; as well as to gain further understanding of agricultural and marketplace regulation in general. The following comments refer to the bill as passed by the Senate. Provisions that were subject to changes made by the House (as of Draft No. 8.3) are marked with a footnote.

- 1) **We affirm that production of Cannabis sativa spp. – whether “hemp” or “marijuana” - is fundamentally an agricultural activity and must be considered so under the law.**

In draft 12.1, §869 the legislation states that “a cannabis establishment shall not be regulated as “farming” under the RAPs... or other State law”. This is a consequential recent addition to an already extremely compromised and inequitable bill and belies the lack of agricultural voices involved in the creation of this bill. We are aware of no precedent for designating a particular crop as non-agricultural in Vermont. How will this affect farmers who have land in Current Use and / or an agricultural easement and who want to grow this crop and participate in this market on that land? What are the other unintended consequences of this for our farming community? Based on comments from Committee members, this provision is inserted here in order to address concerns about the potential exploitation of State agricultural exemptions by monied and / or out-of-State actors. Rural Vermont shares concerns about local control, market access, consolidation and concentration, and the influence of big money – for this crop, and across

agriculture and our economy more broadly. Methods of regulation such as limiting the scale of production allowed, implementing supply management, and laws encouraging food and resource sovereignty exist regionally, nationally, and globally for other agricultural goods and products and could be explored here as well. As with many other farm based products which are processed beyond their raw state, regulations are developed in order to differentiate between what is regulated as “agricultural” and what is regulated otherwise. Claiming that cultivation of *Cannabis sativa* spp. is not an agricultural activity is not a reasonable or equitable means of addressing legitimate concerns related to the potential impacts of this industry and economic and environmental inequity more broadly.

2) **Clear and Equitable Facilities Requirements: “enclosed, locked facility”, “locked or other security devices”, “not visible to the public”**

The requirement in §904 (b) is unacceptably vague and impractical with respect to its implications for farmers and outdoor growers. We understand the definition in §861(15)<sup>1</sup> as being satisfied by semi-permanent fencing (electric or other) providing a “fully enclosed fenced-in area”. The requirement of a permanent, locked perimeter makes the established Best Practice of crop rotation almost impossible. We encourage legislators to allow the security of outdoor cultivation locations to be at the discretion of the cultivator without referring to the rulemaking process of the CCB, as indicated in §881(a)(1)(G). Locally based site limitations on small farms may make it cost prohibitive or logistically challenging to make plants “not visible to the public”; and currently no other agricultural products (including hemp) are limited from public view.

3) **Market Access Equity:** restrictions and/or limitations of number of visitors to farms, direct market opportunities for small-scale producers, etc. confine the economic growth potential of farms and limit direct engagement with consumers and the public which small growers rely upon for business viability. RV opposes §§ 881 2(A)(vi), 974 (b) (24),<sup>2</sup> which enables the CCB to limit the number of visitors a cultivator may allow at any one time. This restricts the economic growth potential of farms that include cannabis cultivation by limiting the number of attendees at educational workshops, tours, and other events promoting the crop, particular practices, or the farm. Income from educational opportunities and events plays an important role in farm viability, and this limitation unnecessarily diminishes economic opportunities for Vermont farmers. Rural Vermont suggests encouraging the cannabis market by:

- **Allowing direct sales** on-farm, in CSA’s, and eventually at farmers’ markets. Tiered agricultural regulations based on scale of production / operation exist in VT, affecting things such as on-farm poultry production and sales, and raw milk. Locating production, processing, and retail at the same site for particular scales of operation will be critical in achieving equitable opportunity for small scale producers and businesses who cannot compete with the economies of scale and available resources of large businesses and farms. We are concerned that obtaining these licenses will be cost prohibitive for small farmers and businesses. We suggest creating a particular scale of Retail and Processing license which are tied to the smallest tier of licensure for cultivators and which account for affordability and access; (or) creating a vertically integrated “small farm license” which would

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<sup>1</sup> §861(18) in House Draft No. 8.3, p. 22, ln. 5.

<sup>2</sup> §974 (b) (24) was in Section 12 of the bill which was deleted in House Draft No. 8.3, see p. 54, ln. 6.

similarly account for affordability, and allow for cultivation, processing, and retail sales on-farm; (or) another method which achieves the intended result. This is a product which is clearly “principally produced” on the farm.

- 4) The **timeline for license applications** gives competitive advantage to indoor cultivators and existing dispensaries and is not appropriate for phasing in licensure. Rural Vermont suggests that the CCB accept license applications and issue licenses on an ongoing basis and without restriction for the smallest tier of cultivation license.
- 5) **Privileges to medical dispensaries** Medical Dispensaries are currently for-profit companies in VT, and given an unfair competitive advantage when they are not required to operate under a regulatory framework which positions them equitably with other for-profit ventures in this industry. Furthermore, they have already demonstrated an inability to adequately regulate themselves as evidence by articles in local news outlets and patient testimony. To create fairness for the new market, Rural Vermont asks the legislature to strike from S.54:
  - The ability to operate as both retail and medical establishments;
  - The ability to vertically integrate under one license;
  - The ability to test themselves and not undergo 3rd party testing;
  - The cost of dispensary product testing being paid with tax dollars by the Department of Public Safety.<sup>3</sup>
- 6) S. 54 does not adequately facilitate **criminal justice reform**  
Rural Vermont sees S.54 as a policy further articulating and codifying cannabis legalization and decriminalization. The bill should therefore encompass criminal justice reform and reparations. **All incarceration** sentencing in §4230(b) should be removed. Additionally, criminal justice reform for Rural Vermont means:
  - Removing criminal background checks in §§ 884(b)(1), 975 (a).<sup>4</sup> With the legalization of Cannabis, we question the purpose and legality behind background checks, and the potential impact on small business viability. To at least gain consistency with §902(c), which requires background checks only for managers, we suggest striking the word “employee” from §884(a).
  - Devoting a portion of the 16% excise tax (§7901(a)) on cannabis sales towards **just reparations and criminal justice reforms** in perpetuity.
  - **Immediately releasing** anyone imprisoned from non-violent cannabis-related crimes.

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<sup>3</sup> As added in House Draft No. 8.3, see p. 86, n.1.

<sup>4</sup> §975 (a) was in Section 12 of the bill which was deleted in House Draft No. 8.3, see p. 54, In. 6.