

Vermont CCB Subcommittee for Market Structure, Licensing, Taxes, and Fees

Meeting Minutes – September 16, 2021

Dan Smith called meeting to order at 1:04pm.

Subcommittee members in attendance:

Sivan Cotel, Advisory Committee

Stephanie Smith, Advisory Committee (joined late)

Chris Walsh, Advisory Committee

Dan Smith, VS Strategies

Jen Flanagan, Vicente/Sederberg

Andrew Livingston, VS Strategies

Tom Nolasco, NACB

Mark Gorman, NACB

Gina Kranwinkel, NACB

Geoffrey Gallegos, NACB

Members of Vermont Cannabis Control Board in attendance

James Pepper, Chair

Brynn Hare, Executive Director

Did not catch who else was in the room

Minutes recorded by Geoffrey Gallegos. Previous meeting minutes were approved by motion of Sivan Cotel, seconded by Chris Walsh.

Dan Smith initiated the discussion for today around other licenses types.

Geoffrey Gallegos asked the Subcommittee to consider flexibility for smaller license types under § 904a, including a 10 square foot Home Grow Permit (with no authority to sell) to protect from seizure, and a 100 square foot Farmers' Market Special Event License (with authority to sell only at farmers' markets).

Andrew Livingston clarified that Vermont already allows for personal-use home grows, and that home grow sales into the regulated market would probably not be permissible under the VT statute. Distinguishing from how Michigan does it.

Dan Smith reviewed that statutory under Act 164, § 7, the CCB is required to tier retail licenses, and has authority to tier other license types as well. Statutory requirements on fees also need to be considered. He then introduced conceptual approaches to different licenses as a way to gauge the opinions of Subcommittee members. Details will be discussed in further meetings.

1. RETAIL LICENSES

CCB required to tier these types, and there are several options to consider. One of the goals is to create license types that will allow for access into the market by smaller operators. Also want to make room for traditional storefronts and not undercut other license types in the process. Dan reminded that this part is a conceptual discussion, not concrete yet, and subject to legal review of CCB counsel. Fees for these tiers will be discussed at the 9/20 meeting when the projected budget of CCB is covered.

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a. First Tier: Traditional Storefront Retailer

This type is similar to brick and mortar storefronts found in other states. It also likely carries the highest fee of all the retail tiers. The Subcommittee understood the concept, and nobody objected to this tier.

Stephanie Smith clarified that this tier is for retail of finished product.

Sivan Cotel offered strongest support for the simpler tiers like the traditional storefront. He raised concerns about security, and would like information from the other subcommittees regarding that issue before getting into less traditional concepts. When approaching a farmer retailer license, he wants to know how will security be addressed, because he does not want to create a security risk in the process of creating a license type.

He also offered the alcohol regulatory structure as a model to consider. Alcohol offers special event sales, but not delivery. Sivan advocated for starting with the more traditional types first, and wait until after market maturity to look at the less traditional types of licenses. He suggested waiting for year two or three as a way to avoid an accidental Wild West occurring in the Vermont market.

Stephanie Smith offered the regulatory model of the Vermont raw milk industry. There is a relationship with the farmer, a need for hazard claims, allows for delivery and on-farm sales. Also allows for sales at farmers' markets. But it does not address security issue.

Dan Smith reminded the group that some of these underlying issues regarding licensing are being addressed in other subcommittees, and may account for some lack of information in this Subcommittee.

Sivan Cotel responded by saying that this group has authority to recommend a fee structure for now, and then leave the decision to the CCB on whether or not to implement it. Would rather put the burden on the CCB rather than another subcommittee.

He also raised the issue of payment options for cannabis. Does not want to see an all-cash environment. He wondered how the state-run financial institutions are going to handle the transactions. Concern is protection for smaller and less-protected retailers.

Dan Smith reminded the group that the banking issue is not within the scope of this group, but imagined that Vermont will have enough banking coverage to service the market. Federal changes (if they happen) would eliminate the issue. He suggested approaching the license recommendations as something that this Subcommittee feels comfortable presenting to the CCB for the purposes of estimating license types with the caveat that the CCB does not have to adopt them, and only would do so if the security and other requirements are adequate. All of these are options that are conditional on future regulations.

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Sivan Cotel reminded the group that everything we send to the board is subject to their discretion.

b. Second Tier: Seeds and Clones

This type is a small retailer selling seeds and clones to other cultivators (home or otherwise).

Stephanie Smith asked if it resembled a nursery. Like selling seed starts, selling seed packets, selling clones. Dan Smith answered yes.

Andrew Livingston clarified that it was a sales-to-consumer concept, but it could also apply to a cultivator, depending on seed-to-sale tracking system. Need a cultivation-to-cultivation transfer, which would involve a technical statutory amendment. Nursery license would not be viable if there isn't a way to do inventory transfer from cultivator-to-cultivator. This type is more designed for retailers

Sivan Cotel saw this as "very Vermonty" and a way for home growers without green thumbs to have better success with a starter kit from a nursery. He supports this type.

Chair Pepper asked for clarification about non-flowering seeds or clones without any measurable THC being within the jurisdiction of the CCB. Andrew Livingston felt they would be, because they will eventually grow into cannabis and not hemp.

Stephanie Smith offered the Vermont labeling standard related to hemp seeds. It needs to state that the THC production is less than the federal standard. Need truth in labeling, and should identify to the consumer that they are buying cannabis seeds, not hemp seeds.

c. Third Tier: Limited Location Retailer

This type would allow the licensee to utilize a retail counter of an existing storefront. This type addresses the needs of a small town that could have cannabis retail needs, but can't support the cost of a full dispensary. It could involve the corner of a shop or a separate entrance. The definition and fee need to create access to the market without undercutting the other types and creating a loophole around the traditional retail license.

Sivan Cotel was not convinced that this type is necessary if the CCB can design a flexible Traditional Retailer type. Suggested capping inventory based on size of store. Still needs to know what the cost is going to be for licenses, and how much money will be recognized before he feels comfortable recommending.

Dan Smith reminded that the budget conversation is next week, and the group should have a clearer idea of that after those conversations. He asked the group to think about the concepts of tiers before thinking about the fees. The fees need to cover operation of CCB, and could be very difficult to do without having high fees. He envisioned a couple of sets of recommendations based on whether the CCB needs costs right away, or whether some of

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the tax revenue can be allocated to covering CCB overhead. Different tiers create some flexibility with setting higher fees for large operators, and more accessible fees for the smaller ones.

Stephanie Smith also felt that Limited Location Retailer could fall within the Traditional Retailer tier, and have the fee based on saleable floor area, similar to a zoning tactic.

Andrew Livingston thought the different license types were helpful when considering the different security requirements, and the viability of operating a big retailer in a small rural area. He reiterated the separate entrance concept, or separating an area within the store for customers over 21. Sets up a discussion with security subgroup.

Sivan Cotel raised the concern of the loophole. Wants to limit the amount that this tier is allowed to sell. If it's a cheaper license, don't want to see someone set up a "coffeeshop" that actually functions as a dispensary. Want to call it a "Traditional Retailer," but allow for flexibility of a side counter in a small town.

Tom Nolasco raised the concern of buffer zones, and how this license type could run headlong into restrictions if the existing store is located in close proximity to schools, churches, residential areas, and other barriers found in zoning regulations.

Dan Smith agreed, and reminded that the process involves offering different concepts for the Subcommittee to consider. He felt that it was worth presenting this type to the group because it addresses the economic needs of the smaller towns, which have been brought up in public comments.

Mark Gorman offered this license type as a familiar concept in the alcohol industry. In Virginia, there are a lot of rural areas, which are serviced by an alcohol licensee who has authority to stock a couple of shelves in an existing storefront.

Dan Smith agreed. He asked for questions or objections to recommending this type of license, with all conditions mentioned. The Subcommittee consented.

d. Fourth Tier: Farmer Retail

This type authorizes limited product to be sold by small cultivators direct to consumer. Raises similar security issues, and how to limit production to avoid undercutting. Could be limited to flower and pre-rolls of flower only. He asked if the Subcommittee felt comfortable with this recommendation. There were no objections.

e. Fifth Tier: Non-Storefront Delivery

This type allows for delivery of cannabis. Could be harder in Vermont if storefronts are geographically spread out, and delivery times will take longer. He asked if this type should be delayed or launched sooner.

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Stephanie Smith supports delivery. Thinks it should be tied to the farmer. Should only be available to small cultivators.

Sivan Cotel disagreed with limiting delivery to small cultivators. If delivery is permitted it should be for all licensees. He prefers waiting for a couple of years for this license type rollout. Exception is access for medical patients.

Chair Pepper asked the Subcommittee to discuss the delivery option and special event permit in further detail. Medical dispensaries are currently allowed to deliver to patients.

Chris Walsh raised the social equity considerations related to delivery. Provides a way into the market with a low barrier of investment compared to the other license types.

Dan Smith raised the Massachusetts approach to providing delivery licenses exclusively to social equity applicants

Sivan Cotel suggested adding delivery as a checkbox addition to other license types for an additional fee. Not to limit delivery to storefront retailers, but provided in addition to the Non-Storefront Delivery type. He wants to ensure that the Non-Storefront Delivery licensee is subject to security, and storage requirements that are compliant with regulations. He also wants to see the delivery rollout be delayed until the market settles.

Dan Smith recapped delivery from a storefront, delivery from someone with a wholesaler or manufacturer license (license to store products). This type is distinguishable from the Courier Type. Could be hard to be profitable straight from storefronts based on the distances that would need to be covered. May need to reserve more time in a future meeting to discuss delivery.

Stephanie Smith asked for clarification about courier service. Is this a different industry doing the deliveries?

Dan Smith compared it to Uber Eats for cannabis. Massachusetts has this type as well as a type where the delivery comes from wholesaler. The courier model has the lowest barrier to entry, because all one needs is a vehicle with proper technology and security requirements. This model is hard to be profitable due to the overhead costs, and the bulk of profit going to the retail outlet, not the driver. Delivery will come up again.

Gina Kranwinkel offered that the Social Equity Subcommittee will be discussing delivery for social equity candidates. Dan Smith said that this will inform what this Subcommittee does.

2. PRODUCT MANUFACTURING LICENSES

The CCB is not required to tier this type, but it would make sense to tier it depending on how cultivation rules are set. Propose two tiers.

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a. First Tier: Full Manufacturing License

Allows for solvent-based extraction, and whatever else is permitted under the Product Manufacturer license. Carries a higher fee.

b. Second Tier: Limited Manufacturing License

Solvent-based extraction not allowed. Does permit infused products. Carries a lower fee.

Chris Walsh asked if the limited license allow for purchase of solvent-based extractions from wholesale.

Dan Smith answered that yes, that licensee could purchase concentrate to infuse into their products. Need to work through some more of the concept to make sure it's economically viable.

Chris Walsh clarified, not the product, but the actual ingredient. The lower tier could not manufacture the concentrate, but could purchase it to use as an ingredient.

Dan Smith said yes, and asked the Subcommittee for approval of the concept, which was granted. The rest of the presentation (Farmer Limited License, Wholesale, Testing Lab, Integrated) will need to be moved to a future conversation.

Stephanie Smith asked about a co-op license.

Dan Smith has not considered it, because the Social Equity group has been looking at it. Gina Kranwinkel confirmed that Social Equity will be looking at it.

PUBLIC COMMENT (summarized)

Bernardo Silva, Legislative Director, Vermont Growers Association
Concerning licensing of solvents. Cited 18 V.S.A. § 4230h, which limits production of concentrates via chemical extraction to authorized dispensaries. Would the three dispensaries under this law be the only businesses that could obtain this license? Would like more information about the two-tier processing structure. Has the Subcommittee discussed amending that law to allow for chemical extraction to be processed by all producers, and not just vertically integrated license holders?

Dan Smith anticipated that recommendations would not be limited to existing licenses, and open to new licensees entering the adult-use market as well.

Andrew Livingston added that many of the vape pens are made with compressed CO₂, and would therefore not be prohibited under the law cited.

PUBLIC COMMENT (summarized)

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Has Subcommittee discussed that law only allows for dispensing of oil in vape cartridges, and how does that impact public health, waste, sustainability, child safety, and these kind of things? His opinion as a consumer is that it is wholly irresponsible State of Vermont to require cartridges as only method of consumption for concentrates. Solventless processing is thrown out the window when you only have cartridges. This is the method of processing with the lowest barrier to entry.

Chair Pepper had to interrupt the public comment due to time constraint.

Sivan Cotel moved to adjourn, which was seconded by Stephanie Smith.
Meeting adjourned at 2:03pm.