

Vermont Compliance & Enforcement Sub-Committee Meeting Minutes—September 27, 2021

Tom Nolasco calls meeting to order at 2:00 pm.

Attendees

Advisory Committee Members:

- Ingrid Jonas
- Ashley Reynolds

VT Cannabis Control Board and Agency Staff:

- Kyle Harris
- Brynn Hare
- Nellie Marvel
- David Huber
- Cary Giguere

NACB:

- Gina Kranwinkel
- Tom Nolasco
- Mark Gorman

VSS:

- Dan Smith
- Jen Flanagan

2 members of public present

Minutes recorded by Mark Gorman

Board member Kyle Harris opens meeting at 2:00 PM asking for overview of how Agency of Agriculture and Department of Liquor and Lottery might work together with the Cannabis Control Board (CCB) to implement an effective enforcement program. After that, he would like to look at security issues drawing on expertise of Tom Nolasco and Jen Flanagan.

Cary Giguere – describes enforcement mission at Agency of Agriculture from a consumer protection perspective, ensuring pesticides are approved and applications are done by licensed individuals, and making sure all retail establishments are visited each year and that products on the shelves are regulated for sale in Vermont.

Kyle Harris – IDs would need to be checked at retail for age verification.

Ashley Reynolds – emphasizes getting pictures of licenses and checking for proof of age in college towns, for example, would be important.

Ingrid Jonas – suggests that CCB could partner with *both* Ag and DLL to bring the expertise of both agencies together.

Kyle Harris – agrees that could be a good arrangement.

Tom Nolasco (NACB) – inquires whether the agencies have the investigators and inspectors to create an enforcement capability for CCB, saying he has spoken to agencies in other states who are concerned about that.

Cary Giguere – replies that it depends on what the charge is. For example, do we have to inspect cultivators once a year or once each growing season?

Jen Flanagan – Massachusetts law does not require the CCB to engage services of other MA agencies for enforcement, but they are encouraged to collaborate where possible. They inspect facilities twice before licensure and two times afterward. It's important to note that MA has a policy for licensees who find they can't comply with regulations that they have to apply for a waiver from the rules explaining what they will do to ensure their systems will be just as safe.

Kyle Harris – says he thinks the Subcommittee has a consensus about CCB collaborating with the other agencies on enforcement. He will write some language and have a vote Thursday. He then asks views on how CCB should start from a security perspective to get licensees up and running. He asks NACB Subcommittee advisers Tom Nolasco and Mark Gorman to bring some examples from other state regulators to the Thursday meeting.

Public Comments

Dave Silberman – suggests licensees should report to CCB how much cannabis they can safely store on their premises to keep a handle on how much is being produced in the state.

Further Comment from Subcommittee

David Huber – asks Jen Flanagan for an answer to Tom Nolasco's question about how many inspectors they needed in MA.

Jen Flanagan – said MA didn't do a survey or have a specific plan at the start, realizing they would need to adapt as they went forward. Initially they had about six inspectors, and four years later they have about 20. They went back to the legislature two or three times to ask for supplemental resources. She emphasized the need for good tracking because if anyone has questions, you must have the answers.

Adjourn

Kyle Harris calls for adjournment at 2:59. A motion and a second were offered.

NACB's Tom Nolasco gave an overview of the research on local ordinances, looking at other states, especially Dillon Rule states to use as potential models. Kyle Harris posed the question, regarding model ordinances, how can we utilize this subcommittee to make progress on giving guidance? Kyle Harris proposes that subcommittee members take time to review model ordinances circulated and discuss on Monday's meeting. We can look at how best to be helpful ahead of the next week's roundtable.

Notable Comment(s):

*Tom Nolasco- Nevada and Virginia are Dillon states. Model local ordinances from NV, specifically Reno and Las Vegas, are available. Virginia is relatively new and has not progressed very far in issuing regulations. Act 164 not a lot is left to the towns and municipalities as far as local powers that is granted by the legislation. Keep in mind, Nevada statute is vastly different from Vermont. Mark was able to find some options recommended in Connecticut and Virginia.

*Tim Wessel- Any guidance is welcome by municipalities. Municipalities in VT hope the state will be keeping them in mind when they go forward. Any guidance to the municipalities would be welcome. Delaying a round table sounds wise until next week. We aren't sure of what's coming out of this committee.

*Julie Hulburd- If you discuss model ordinances and there are specific questions we can ask at the roundtable, it's the best way to get their feedback.

*Tim Wessel- We have both staff capacity and board capacity, but zoning rules have to be run through state as well.

Kyle Harris moves to continue with the seed to sale tracking conversation and asks Lindsey Wells to speak on her knowledge on this.

Notable Comment(s):

*Lindsey Wells- What kinds of requirements for system would be needed: security, users, records, reports could be run by licensee or board. Our solution can integrate with anything; we can push or pull information. Platform we have is Visual Vault.

*Cary Giguere- I think it's better to go with what works, tried and true. It would be good to get demonstrations from Visual Vault and Trace.

*Kyle Harris- It would help to determine what is most appropriate to include in an RFP. Lot number instead of track and trace each plant. Most interested to hear how we can craft something to put out for an RFP to help small cultivators. Form the basis of an RFP to look for a vendor.

*Tom Nolasco- API is what's critical and how that interacts with whatever software the state uses. Each license holder can use what software they want as long as it interfaces with the state.

*Cary Giguere- If it's possible to go with where they don't have to buy anything but log onto what the state owns, that could take a load off small cultivator. I think we should have a system that the state is running that they can log onto without having to purchase any standalone process.

Tom- In AZ, state did not have its own software program. Because that was legacied-in We can look into newer jurisdictions on how it's set up. In my experience, license holders get own software and do not rely on the state.

*Kyle Harris- Brynn and I will write a paragraph that the subcommittee would consider sending to the board with these comments in mind. Lot vs per plant. We can get something together and share with subcommittee on Thursday.

The subcommittee continues the conversation regarding cultivation compliance.

Notable Comment(s):

*Cary Giguere- The Dept. of Agriculture has the following resources: Hemp inspector, lab compliance officer, Stephanie Smith manages Hemp program, 6 field agents that could be cross trained to do inspection- we could also have a stand-alone cannabis control program. In the Hemp program, number of acres in the thousands of acres. We are at 20% cultivators inspected annually. Class A pesticide dealers get visited up to 6 times/year, Class B get visited at least once every other year. 100% of entities are inspected, but don't test 100% of samples. No open case is allowed for public consumption.

*David Huber- Training for inspectors- all field agents currently do nursery inspections, feed, seed, fertilizer, lime, ginseng, etc. We look at a wholistic approach with operations. Inspectors go through external and internal trainings- Geared towards health inspector. Environmental enforcement- NE Environmental Enforcement Project- EPA professionals and state regulators to provide training. Includes basic and advanced training.

*Cary Giguere- Hemp inspector has produce safety training from USDA. For hot hemp, VT law allows them to sell it to a dispensary. 5 or 6%, they can plow it under.

*David Huber- We do verify destruction and handle pursuant to our records.*Cary Giguere- Department of Public Safety enforces illicit market. Our licenses are tiered .5 acres or less is personal. 1-5, 5-10. We have 7 growers growing more than 50 acres.

* Tim Wessel- If there is consensus on the group, I feel okay with that.

*Ashley Reynolds- I think how we've been running Hemp is easier for tracking. We just updated our labels for VT label requirements, put processors license # as well as linking that to lots, and linking that to lab results which we don't have to, but we publicly post on website. 47 different heavy metals, pesticides, herbicides and containments we test for. I know we need to digitize this and move toward a larger website/web host, but as it sits now, I feel on the hemp side, larger producers and brands are doing our due diligence and posting labs to help consumers make choice.

*Ashley Reynolds- As for soil testing, it's up to the producer and grower to test soil ahead of time. Soil testing isn't recommended by state but highly encouraged.

Kyle Harris put up for a vote that the CCB will look to work out a Memorandum of Understanding for outdoor and indoor inspection. Cary Giguere abstained. 4 ayes, no opposed.

Public Comment Period:

Kyle Harris notes there are no public comments in the room at 2:50 PM.

Adjournment:

Following closing thoughts/comments, Tom Nolasco makes motion to adjourn, Ingrid Jonas seconds. Tom Nolasco adjourns the meeting at 3:04 pm.

Next Compliance & Enforcement Sub-Committee meeting is Thursday, September 23 at 2 pm ET.