

Vermont Compliance & Enforcement Subcommittee Meeting Minutes – October 18, 2021

Board members and staff in attendance:

- Kyle Harris – Board Member
- James Pepper – Board Chair

Advisory Subcommittee in attendance:

- Sivan Cotel
- Ingrid Jonas
- Ashley Reynolds
- Chris Walsh

Additional attendees:

- David Huber – Agency of Agriculture, Food and Markets
- Skyler Genest – Department of Liquor and Lottery

NACB staff in attendance:

- Tom Nolasco
- Mark Gorman
- Gina Kranwinkel
- Jen Flanagan - VSS

1 members of the public present

Minutes recorded by Mark Gorman

Tom calls the meeting to order at 2:00 PM and takes attendance

Kyle Harris – thanks the attendees and announces this will be the last regular meeting of the Subcommittee. Kyle announces that Skyler Genest is present from the DLL to provide insight into retail enforcement capabilities and techniques that might be relevant to cannabis. After this, we will return to discussion about transportation security and how to ensure against diversion while not overburdening smaller Vermont cannabis operators.

Skyler Genest (calling from overseas with a weak internet connection) – will utilize parallels between beverage alcohol retail security and the new cannabis market, recognizing the two products are significantly different. Restrictions around alcohol site security are not highly prescriptive but require robust education of retail operators to prevent violations. (Signal breaking up.) References the commissioner’s October 7 letter.

Kyle – Sivan and Chris both have alcohol experience so they can help with this discussion. We can also learn from the documents Skyler has sent.

Skyler – security at 802 Spirits stores is extremely important because the inventory is owned by the taxpayers.

Sivan – Skyler’s documents highlight things we need to deal with. What is said about the need for flexibility is interesting.

David Huber – how do you continue to educate retail operators and employees, especially if they repeatedly fail to pass the tests.

Ashley – are we still considering a hybridized enforcement arrangement with DLL and Department of Agriculture?

Kyle – The Board hasn’t made any decisions, but now that the market analysis has been delivered to Legislature, we’re seeing where we are with respect to the recommendations of DLL and Ag. We have signaled to the Legislature that we would like to bring some of this inspection capability in-house, but I don’t think we’re far enough along that they would be willing to let us do this in the next year or so.

Ashley – I really like idea of collaborating but am not sure what that really entails. Safety at retail level is going to be huge but am not quite sure who is going to be best equipped for that.

Tom – I appreciate DLL’s level of detail in developing a point system to assess qualified retail license applicants and performance but am surprised there’s no mention of lighting, for example. The Subcommittee has considered other measures such as security cameras that could be adapted easily into the point system.

Skyler – we could look at those other measures and see how to fit them into the point system.

Chris Walsh – I am looking at Regulation 17 about not serving customers who appear to be intoxicated, and wondering how would that work with cannabis establishments.

Sivan – It’s about impairment. It’s a vague statute. If someone walks into a cannabis dispensary and they’re obviously not making sense, you might not want to serve them or sell to them, but you need some context. They could be using it medically.

Chris – It’s going to get tricky, somewhere down the line, if you can purchase and consume on the same property.

Tom – following up Chris and Sivan, the regs seem to speak to the issue of over-serving in a bar. There is liability in that case known as “dramshop” where the proprietor is responsible if impairment results in accidents and injuries. In some states, you are now hearing people in other states talk about “gramshop.” It establishes liability and should make retail shop owners concerned about overserving cannabis.

Kyle – the Board will consider on-site consumption lounges in the Exploratory Subcommittee. Calls on Jen Flanagan for her views.

Jen – when it comes to security, you really want to secure the product and secure the premises and keep it out of the hands of children. In Massachusetts, we had to do everything in-house. Question is looking at the big picture. We have subcommittees looking into different things, but how is it all going to come together? It depends on your values. If regs aren’t working the way you intended, they can be changed. You will have an internal process to do that.

Sivan – laws change every year and regulations will have to change from time to time as well. Important to note the alcohol rules can be modified by retail operators to deal with problem customers at the retail level. CCB should consider allowing the same flexibility.

Kyle – I want to move on to transporting cannabis among production facilities before the product reaches the retail level.

Gina – Social Equity Subcommittee discussed the C&E Subcommittee’s inquiry from last meeting about whether licensees with delivery privileges would be interested or willing to transport cannabis among other industry facilities in addition to retail customers. The response from Social Equity Subcommittee members is, yes, they would like to have the option to work that part of the business.

Kyle – there are no public members present, so let’s move to other transportation issues. Is there one baseline security measure we should include for all cannabis operators? Maybe a lock box inside the car?

Ashley – I think that locking the vehicle is enough. One huge issue that has developed is getting compliant containers that don’t leach harmful chemicals that can contaminate the cannabis product on a hot day when left in the car. There are new products and materials but it’s hard to get them due to supply chain problems.

Sivan – I agree with Ashley. Locked in a car out of sight is enough. Don’t think we need two drivers. It’s reasonable to say you can’t leave your vehicle unlocked and unattended. Maybe rules should be more stringent for much larger producers, but out of sight in a locked car is generally enough.

Tom – I still think there should be a manifest. It’s standard in most states. I also think cannabis theft is going to be an increasing problem.

Ingrid – I think if there is a locked container mandate for medical marijuana transport, maybe there should be something similar for commercial cannabis.

Tom – I will run this by the medical Subcommittee this afternoon.

David Huber – we have no records of people breaking into cars to steal hemp. What makes us think that will be a problem for cannabis? I just want to make sure this could be a real problem. Jen?

Jen – security is about protecting the plant and the personnel. In Massachusetts, some companies are careful enough to run dummy trucks. This plant is much more valuable than hemp.

Tom – I’m surprised anyone is thinking about stealing hemp, but clearly there was back in September when 50 hemp plants were stolen.

Jen – I’d be curious if insurance companies require a certain level of security.

Ingrid – are we going to have the manifest include official documentation to help differentiate between people transporting cannabis for legitimate business purposes and other people who have more nefarious purposes?

Kyle – Tom mentioned there would be documentation for seed-to-sale records

Kyle – thanks to everybody for their work. We will update people when there is something to share, but this is our last regular meeting. There may be ad hoc meetings in the future. Meanwhile I will be working to turn all this good information into something that's useful to the Board.