

Act 158 Summary

An act relating to regulating licensed small cannabis cultivation as farming

Act 158 (S.188) was signed by Governor Scott on May 31, 2022. This bill makes several changes and clarifications to the statutes governing cannabis regulation. This document summarizes those changes.

- Removes the requirement for child-resistant packaging for cannabis flower, and instead requires “child-deterrent packaging”. “Child-resistant packaging” remains a requirement for all “cannabis products”, which is a defined term that includes anything that might have a psychoactive effect if accidentally consumed, including edibles, oils, tinctures, and concentrates. The child-deterrent packaging requirement for cannabis flower ensures that young children are deterred from accessing these products but will enable the industry to use non-plastic packaging alternatives for cannabis flower like glass jars or tear-resistant sealed bags.
- Permits farms that are currently subject to Required Agricultural Practices to grow 1,000 sq. ft. of cannabis, and: 1. not lose any “right to farm” exemptions on the larger farm; and 2. enjoy several “right to farm” exemptions to their cannabis crop. This provision clarifies that small cultivators growing 1,000 sq. ft. of cannabis will not jeopardize an existing farm’s Act 250 exemption; that these small plots can be grown on agriculturally zoned land; that they are not subject to local zoning; and that the use tax does not apply to agricultural inputs for cannabis.
- Transfers regulatory oversight of hemp testing and hemp infused products from the Agency of Agriculture, Food, & Markets to the Cannabis Control Board. The Cannabis Board must report back to the Legislature about how it will regulate the hemp industry in January 2023.
- Permits licensed cannabis cultivators and wholesalers to sell seeds and clones to other cannabis licensees, but not to the public.
- Removes the requirement that outdoor cannabis cultivation occur in an “enclosed, locked facility,” and instead requires cultivation to be in an area that is screened from public view and limits access to the cultivator and persons 21 or older with the cultivator’s permission.
- Authorizes the Cannabis Control Board to regulate all synthetic cannabinoids.
- Permits product manufacturers to produce solid concentrates above 60% solely for use in other cannabis products that are compliant with the potency caps. Sale to the public of solid concentrates above 60% THC remains prohibited. This provision allows the production of high THC concentrates within the supply chain but not for sale to the public.
- Clarifies that cannabis products may contain both THC and CBD.

- Permits the Cannabis Control Board to use background checks through a third-party vendor that specializes in professional background screening. Redefines key terms within the statute to provide greater specificity for the FBI in order to obtain authorization from the federal government for the Board to facilitate fingerprint-supported background checks.
- Decouples the employee ID card from a specific cannabis establishment to allow cannabis workers to move from one business to another without having to re-apply for a new employee ID card.
- Allows the Board to rely on a fingerprint-based identity history summary record when issuing an employee ID card. This allows employee ID card applicants to obtain their own fingerprint supported background checks and submit them to the Board as a part of their employee application.
- Allows licensed testing facilities to have multiple locations.
- Clarifies that the original legislative intent of Act 164 was that the one-license type per entity rule applies equally to integrated licensees, even if the entity owns two dispensary licenses.
- Permits retailers to package cannabis.
- Permits online pre-order of cannabis from licensed retailers for in-person pickup at a retail location.
- Ensures that integrated licensees are required, along with all other types of licensees, to conduct independent third-party testing of their products.
- Clarifies that all cannabis producers must register the products they create and package for retail sale.
- Prohibits butane and hexane- based extraction, including for the medical dispensaries.
- On October 1, 2022, ends the advantage that integrated licensees have to grow unlimited canopy.
- Requires the Board to report on shifting the entirety of the Cannabis program to the Agency of Agriculture, Food, & Markets to be regulated as farming if the federal government eventually removes “marihuana” from the Schedule 1 list of controlled substances.
- Requires the Cannabis Control Board to report back on impact of the 60% THC cap on solid concentrates on the Vermont cannabis market.

