



## Summary of S. 54, the bill to regulate and tax cannabis in Vermont

On Tuesday, September 15, the Vermont House and Senate reached final agreement on the details of S. 54, Vermont's bill to legalize, regulate, and tax cannabis sales, which had previously passed both the Senate (23-5) and the House (90-54) in different forms. The House approved the bill in a final vote (92-56) on September 17, and the Senate approved it in a final vote (23-6) on September 22. Gov. Phil Scott announced on October 7 that he will allow the bill to become law without his signature. His statement is available [here](#).

Here is a summary of provisions that are included in the final version of S. 54. The legislature also passed a companion bill (S. 234) that will automatically expunge low-level cannabis convictions and to decriminalize modestly exceeding the legal possession and cultivation limit. Details on that bill are available [here](#).

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### Changing “Marijuana” to “Cannabis”

- S. 54 would change “marijuana” to “cannabis” throughout the Vermont statutes.

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### Promoting Small Businesses, Social Equity, and Vermont Control

- The board must establish a system of prioritization, including for applicants, that: are medical cannabis dispensaries; have environmentally sustainable plans; are owned by minorities or women; have plans to recruit and promote minorities, women, and those disproportionately impacted by cannabis prohibition; or have plans to pay living wages and offer benefits. It must also promote a fair geographic distribution.
- Technical and business assistance would be provided for some priority applicants.
- The board must consider policies to promote small-scale cultivators — those growing not more than 1,000 square feet of canopy — including prioritizing their licensure. Although cannabis cultivation would not be defined as “agriculture,” farmers with small-scale cultivation licenses (up to 1,000 sq. ft.) would be allowed to grow cannabis on land designated as “current use” farmland.
- Secure, outdoor cultivation would be allowed.
- Each applicant could only hold one of each type of license, at one location.
- Regulators will craft rules for circumstances under which a person may be denied direct involvement the cannabis industry, which will be based on “whether the applicant presently poses a risk to public safety or the proper functioning of a regulated market.” Non-violent drug offenses cannot be automatic grounds for a denial.

## State Regulation and Licensing of Cannabis Businesses

- **Cannabis Control Board.** An independent commission within the executive branch — the Cannabis Control Board — would regulate and license adult-use cannabis businesses and medical cannabis dispensaries. The governor would submit a list of names to a nominating committee — composed of members appointed by the Senate, House, and governor. The committee would determine which candidates are well qualified, and the governor would then appoint a chair and two additional members from that list. All members would require confirmation by the Senate.
  - The board would appoint a full-time executive director — an attorney with experience in legislative or regulatory matters — and hire a full-time administrative assistant. The director would hire additional staff.
- **Advisory body.** A 12-member appointed advisory committee would be composed of members with expertise in public health; laboratory science or toxicology; systemic social justice and equity issues; women and minority-owned business ownership; substance misuse prevention; the cannabis industry; business management or regulatory compliance; municipal issues; public safety; and criminal justice reform, along with the designees from the departments of Agriculture and Natural Resources.
- **License types.** The board would license retailers, cultivators, product manufacturers, wholesalers, labs, and integrated licenses. Retailers and cultivator licenses must be tiered, and other licenses may be as well. Employees must also register.
  - There will be no more than five integrated licenses, one per dispensary. (However, any licensee could have one of each category of license.)
- **Rules.** The board would develop comprehensive rules, including governing financier disclosure and eligibility, security, oversight, lab testing, health and safety, pesticide use, labeling, additives, employee and licensee training, banking, tracking, storage, and transportation; mandating child-safe packaging; and banning products and packaging designed to appeal to minors.
  - The board will develop a symbol to be used on cannabis products.
  - Cannabis products could not include nicotine or alcoholic beverages.
  - The board would determine qualifications for licensees.
  - Other than registered patients, cannabis establishments cannot allow anyone under 21 to enter premises where cannabis is.
- **Appeals process.** An appeals process would be established for persons aggrieved by a decision of the Board.
- **Potency limits for adult-use sales.** Flower could not exceed 30% THC. Solid concentrates could not exceed 60%. Oils — apart from cartridges for vape pens — would not be allowed.
  - A single package could not exceed 50 milligrams of THC, other than non-consumable products, such as topical salves, and medical cannabis.
  - These restrictions would not apply to medical cannabis or home cultivation.
  - Servings are limited to five milligrams of THC. The number of servings must be listed.
- **Independent lab testing.** Cannabis would have to be tested for purity and potency by an independent lab before it could be sold.
- **Flavored vapes banned.** Vape cartridges and cannabis flower that contain flavors that are not naturally occurring in cannabis could not be sold.
- **Advertising restrictions would be studied further.** The Cannabis Control Board would make recommendations to the legislature by April 2021, after consulting with the Attorney General and Department of Health. The proposal will reflect these priorities: not promoting

cannabis use, limiting exposure to those under 21, and ensuring consumer protection and safety. It will also take into consideration constitutional considerations.

- **Environmental standards.** The board will recommend to the legislature requirements for cannabis establishments' energy or efficiency and environmental requirements, including related to water quality requirements, solid waste and hazardous waste, energy audits, and energy efficiency measures.
  - **Warnings.** Retailers must display flyers developed by the health department that include warnings, including about possible risks of cannabis and driving under the influence. Packaging will also include all warning labels mandated by the board.
  - **Further study.** The board will report to the legislature:
    - whether it should consider expanding the types of licenses, including delivery, craft cooperative, and special events;
    - whether a minimum amount of CBD should be required in cannabis products;
    - regarding other jurisdictions' experience with online orders and delivery; and
    - recommendations on cannabis paraphernalia sold by entities other than licensed cannabis businesses.
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## Medical Cannabis

- Medical cannabis sales from dispensaries are tax-free to patients and caregivers.
  - Small cultivators may sell to licensed dispensaries as soon as they are licensed.
  - Oversight of the medical cannabis program would move from the Department of Public Safety to the Cannabis Control Board on March 1, 2022.
  - Adult-use potency limits do not apply to medical cannabis.
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## Local Control

- Localities must opt in to having cannabis retailers or integrated licenses, via an annual or special meeting. Localities may also refer the question to voters.
  - Municipalities could not choose to prohibit other types of cannabis businesses.
  - Localities may also develop regulations and municipal licensing requirements.
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## Detecting Impaired Drivers

- All law enforcement must receive at least 16 hours of Advanced Roadside Impaired Driving Enforcement training by December 31, 2021. By March 1, 2021, the Department of Public Safety (DPS) will report on how to achieve geographic equity on the availability of Drug Recognition Experts and whether to expand the program.
- If an officer has reasonable grounds to believe a person is under the influence, the person is deemed to have consented to a saliva test. Officers may then apply for a search warrant.
- If a threshold level of cannabis is identified that establishes impairment and a roadside test has been shown capable of identifying that amount roadside, DPS will report to legislative committee and make a proposal for implementing the device in Vermont.

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## Report on Equal Protection in Traffic Stops and Searches

- By January 15 in 2022, 2023, and 2024, the Criminal Justice Training Council will report to legislative committees on the demographics of Vermonters subjected to traffic stops, along with the reason for the stop, the type of search conducted, the evidence located, and the outcome of the traffic stop.
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## Taxation and Distributing the Revenue

- Retail sales would be subject to a 20% tax (a 14% cannabis excise tax, plus Vermont's 6% sales tax) with no local option tax.
    - The sales tax portion of the revenue would be allocated to a grant program to start or expand after-school and summer learning programs, with a focus on underserved areas.
    - Up to 30% of the cannabis tax revenue (up to \$10 million per year) would be allocated to substance misuse prevention programming.
  - The state would assess local licensing fees and distribute the proceeds to municipalities.
  - Medical cannabis would not be taxed.
  - The board would provide recommendations to the General Assembly on:
    - resources, including personnel, the board needs in the next two fiscal years; and
    - tiered fees it recommends for cannabis establishments.
  - \$650,000 is appropriated in fiscal year 2021 to the Cannabis Control Board, in anticipation of revenue being generated.
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## Timeline

- Cannabis Control Board members' terms begin on January 19, 2021.
  - By January 15, 2022, the board will report to the legislature on a number of matters, including whether the legislature should consider additional license types, including delivery, craft cooperative, and special events.
  - By March 1, 2022, final rules will be adopted for adult-use cannabis establishments.
  - By May 1, 2022, licenses will begin being issued for small cultivators, integrated licensees, and testing labs.
  - By May 1, 2022, integrated licensees may begin selling to adult consumers.
  - By June 1, 2022, the board will begin issuing all cultivator licenses.
  - By August 1, 2022, licenses will begin being issued for product manufacturers and wholesalers.
  - By October 1, 2022, licenses will begin being issued for retailers.
  - More details on the timelines are available [here](#).
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