On February 27, 2020, the Vermont House of Representatives approved S. 54 in a voice vote, a day after it voted 90-54 in favor on second reading. The bill would legalize, regulate, and tax cannabis sales for adults 21 and older. S. 54 passed the Senate in a 23-5 vote in 2019. The bill now returns to the Senate for reconciliation.

Vermont legalized possession and cultivation of cannabis for adults 21 and over in 2018. If S. 54 is enacted, Vermont would join the 10 states that have laws regulating and taxing cannabis for adult use.

The bill would also change “marijuana” to “cannabis” throughout the Vermont statutes.

Here is a summary of the bill’s key provisions. For any provisions, where the Senate and House bills differ, the below details are based on the House version, unless otherwise stated. The differences will be resolved in a conference committee.

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. It would be composed of three full-time members (or five in the Senate version). The governor would submit at least five names for each appointee 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 members from the committee’s list.
  - 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, labeling, 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.

- **Potency limits for sales.** Flower could not exceed 30% THC. Solid concentrates could not exceed 60%. Oils — apart from cartridges for vape pens — would not be allowed. These restrictions would not apply to medical cannabis or home cultivation.

- **Flavored vapes banned.** Vape cartridges that contain flavors that are not naturally occurring in cannabis could not be sold.

- **Advertising restrictions.** In the House version, advertising would be completely banned. In the Senate version, ads must be approved by the board and must include warnings. Advertising could not be deceptive, promote overconsumption, offer free samples, or be appealing to minors. Advertising would only be allowed where the licensee can reasonably expect no more than 15% of viewers will be under 21.

- **Environmental standards.** By January 15, 2021, 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.

- **Warning flyer.** Retailers must display flyers developed by the health department that include warnings, including about possible risks of cannabis and driving under the influence.

- **Further study.** By November 15, 2021, the board will report to the legislature:
  - a plan to foster economic opportunities for those harmed by cannabis prohibition;
  - 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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**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 will 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 cultivators — those growing not more than 500 square feet of canopy — including prioritizing their licensure.

- Secure, outdoor cultivation would be allowed.

- Each applicant could only hold one of each type of license, at one location.
Local Control

- Localities must opt in to having cannabis retailers, via an annual or special meeting.
- Localities may also develop regulations and municipal licensing requirements.

Taxation and Distributing the Revenue

- In the Senate version, adult-use cannabis sales would be subject to a 16% excise tax on retail sales, and municipalities could impose a 2% local option tax if they host a retailer.
- In the House version, 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. In the House version, the cannabis sales tax revenue would be used for after school and summer learning programs, with a focus on underserved areas.
- Medical cannabis would not be taxed.
- In the Senate version, up to 30% of the cannabis tax revenue (up to $6 million per year) would be allocated to the Substance Misuse Prevention Fund. In the House version, 30% of the excise tax revenue — with no cap — would be used for programming recommended by the Substance Misuse Prevention Oversight and Advisory Council.
- The board would provide recommendations to the General Assembly on:
  - resources, including personnel, the board needs in the next two fiscal years; and
  - application and licensing fees, which may be tiered. The fees should be designed to cover the Cannabis Control Board’s costs and repay the fund’s loan within 10 years.
- $860,000 is appropriated in fiscal year 2021 from the Cannabis Regulation Fund to the Cannabis Control Board, in anticipation of revenue being generated.

Detecting Impaired Drivers

- All law enforcement must receive at least 16 hours of Advanced Roadside Impaired Driving Enforcement training by December 31, 2021. By January 15, 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 the National Traffic Highway Safety Association identifies a threshold level of cannabis to establish impairment and approves a roadside test that can identify it, DPS will report to legislative committees on implementing the device in Vermont.

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.

Timeline

- Rulemaking would begin by March 1, 2021.
- The board would start accepting applications for integrated licenses, labs, and small cultivators by January 15, 2022. They would be licensed by February 15, 2022.
- Other cultivation applications would be accepted on February 15, 2022, and they would be licensed by April 1, 2022.
- Applications for labs, product manufacturers, and wholesalers would be accepted beginning April 1, 2022. They would be licensed by May 15, 2022.
- Retail applications could be filed by June 1, 2022, with licensing by July 15, 2022.
- The board can re-open the application process at any time.
- In the House Appropriation’s version, the board would be repealed on July 1, 2024.

Medical Cannabis

- Medical cannabis sales from dispensaries are tax-free to patients and caregivers.
- Existing possession and plant limits for dispensaries end on September 1, 2021.
- Small cultivators may sell to licensed dispensaries as soon as they are licensed.