

Cannabis Industry Subcommittee Meeting – November 17, 2017
Saltonstall Building, 100 Cambridge St., Second Floor, Room C, Boston, MA 02114

Board Members Present: Robert McConnaughey (Designee for Commissioner Harding) Taryn LaScola (Designee for Commissioner Lebeaux), Mary Ann Pesce, Michael Latulippe, Michael Dundas, Katherine Doyle (Commissioner, Massachusetts Cannabis Control Commission), Ray Berry, Kim Napoli, Horace Small

Remote (phone): Lydia Sisson, Shanel Lindsay, Norton Arbeláez,

Absent: Jamie Lewis

Quorum established at 1:07 PM, Meeting was called to order by Robert McConnaughey at 1:07 PM.

Introductory Remarks

*Robert McConnaughey stated voting will begin this meeting and while one more meeting is currently scheduled, another could be included.

Roll Call

*The attending subcommittee members each introduced themselves.

Approval of Minutes

*Michael Latulippe noted that the second to last paragraph of the November 9, 2017 minutes should reflect that Horace Small said that for-profit, rather than non-profit, businesses were written into the law. This change was incorporated into the minutes. Motion made by Michael Latulippe to vote to approve the minutes from the November 9, 2017 meeting. The motion was seconded by Robert McConnaughey. The members approved the minutes unanimously.

Social Consumption

*Michael Latulippe presented the working group's updated recommendations reflected in a document entitled "Onsite Consumption Marijuana Retailers Tenets" and on Slides 3 through 21. See attached appendix for a listing of all approved recommendations. The following comments were made:

*Slide 7, recommendation 1: Robert McConnaughey suggested that a useful metric for a bar setting could be servings per seating.

*Motion made by Michael Dundas to vote to approve recommendation 1 on Slide 7. The motion was seconded by Horace Small. The members approved the recommendation unanimously.

*Slide 7, recommendation 2: Michael Dundas asked what "exposure limit" refers to. Michael Latulippe clarified that it is derived from DPH requirements that medical marijuana packaging display this limit. Robert McConnaughey expressed his concern that the exposure limit is a very high ceiling and that the recommendation reflects a different daily exposure limit for edibles. He also stated that serving size generally presented a tighter metric and that recommendations 1 and 3 synergize nicely. Michael Latulippe replied that the ultimate goal of the recommendation is to provide a state upper limit, which municipalities can lower.

*Michael Dundas also asked whether this recommendation expects liability to fall on establishments or individuals. Michael Latulippe responded that it falls on both, but retailers are only responsible for

enforcing the exposure limit. He added that retailers should have staff trained to know when an individual has consumed too much already and prevent them from buying more.

*Kim Napoli asked whether this recommendation applies only to edibles and topicals. Michael Latulippe clarified that the daily exposure limit applies to all forms of marijuana consumption. He also suggested that the POS systems could track an individual's purchases and prevent purchases that exceed the limit. Robert McConnaughey recommended that Michael Latulippe add the language "or a combination equivalent" to the recommendation in order to clarify that it applies to edibles.

*Michael Dundas noted that measuring a maximum exposure limit is difficult. He also suggested that because recommendation 2 appears to be subsumed into recommendations 1 and 3, recommendation 2 may be unnecessary. Michael Latulippe pointed out that the recommendation is based off established science, gives municipalities state guidelines to work around, provides applicants with some certainty, and would demonstrate to the federal government that Massachusetts is taking this issue seriously.

*Motion made by Horace Small to vote to approve recommendation 2 on Slide 7. The motion was seconded by Ray Berry. All members present approved the recommendation, except Robert McConnaughey, who abstained.

*Motion made by Michael Dundas to vote to approve recommendation 3 on Slide 7. The motion was seconded by Horace Small. The members approved the recommendation unanimously.

*Slide 8, recommendation 4: Michael Dundas asked whether identifying information would be present in the lockbox system. Michael Latulippe replied that customer information could just be a generic retail code. Michael Dundas responded that tracking this information seems extreme and has no analogue in the alcohol industry. Michael Latulippe noted that because marijuana remains federally illegal, it is important to heavily monitor sales in order to not run afoul of the federal prohibition.

*Robert McConnaughey clarified that the lockbox system referred to by Commissioner Harding at the previous meeting referred to tracking cash sales, rather than monitoring consumption. He also noted that recommendation 5, concerning robust training, may be sufficient to enforce consumption limits, and that he worried about the logistical implications of this recommendation. Taryn LaScola added that if the daily exposure limit can only be tracked on one point of sale and does not account for an individual's consumption at another location, then perhaps this recommendation is unnecessary. The subcommittee agreed to revisit whether recommendation 4 is necessary from a regulatory perspective.

*Motion made by Horace Small to vote to approve recommendation 5 on Slide 8. The motion was seconded by Michael Dundas. The members approved the recommendation unanimously.

*Motion made by Kim Napoli to vote to approve recommendation 1 on Slide 9. The motion was seconded by Horace Small. The members approved the recommendation unanimously.

*Slide 10, Recommendation 2: Robert McConnaughey asked whether there are any similar regulations concerning tobacco establishments. Kim Napoli suggested that Michael Latulippe incorporate her working group's recommendation on a similar issue that is based on a blend of Massachusetts smoking and Denver marijuana laws. The subcommittee agreed to revisit this recommendation pending a review of those laws and the inclusion of emissions considerations.

*Motion made by Horace Small to vote to approve recommendation 1 on Slide 11. The motion was seconded by Kim Napoli. The members approved the recommendation unanimously.

*Slide 12, generally: Robert McConnaughey suggested that the recommendations on these slides clarify that they refer to municipal control over zoning.

*Michael Dundas noted that while there are specific local approval requirements for medical marijuana purposes, they have not been fleshed out for recreational marijuana and suggested referencing G.L. c. 94G, § 3(a). Michael Latulippe replied that the recommendation does not intend to treat on-site retailers like medical marijuana establishments specifically, just that they be treated like any other marijuana establishment. Commissioner Doyle and Robert McConnaughey suggested that the recommendation clarify that it pertains to adult use/recreational establishments.

*Slide 12, Recommendation 2: Robert McConnaughey noted that this recommendation appears to repeat recommendation 1 and Michael Latulippe agreed to remove it.

*Slide 12, Recommendation 3: Ray Berry suggested that the recommendation should clarify that a one day permit applies to both on-site and off-site consumption.

*Mary Ann Pesce reiterated her concern from the previous meeting about the mixing of alcohol and marijuana and asked how one day events could be regulated. Kim Napoli suggested that the working group consider Denver guidelines concerning on-site and off-site issues. Michael Latulippe noted he would do more research on recommendation 3 and it would be revisited.

*Slide 13, Recommendation 1: Kim Napoli suggested incorporating safeguards to prevent access by individuals younger than 21. Michael Latulippe clarified that this recommendation pertains to designated spaces in a hospitality establishment that requires patrons be at least 21 and would need municipal approval to serve marijuana. Robert McConnaughey suggested splitting this recommendation into 1A, for on-site establishments where 51 percent of the entity's sales consist of marijuana, and 1B, for sites that require special municipal approval.

*Motion made by Ray Berry to vote to approve recommendation 1A on Slide 13. The motion was seconded by Horace Small. The members approved the recommendation unanimously.

*Motion made by Michael Latulippe to vote to approve recommendation 1B on Slide 13. The motion was seconded by Kim Napoli. The members approved the recommendation unanimously.

*The subcommittee agreed to revisit recommendation 2 on Slide 13 and that recommendations 3 and 4 on Slide 13 were addressed by previous recommendations.

*Slide 14, Recommendation 5: The subcommittee agreed that this recommendation is duplicative of recommendation 6.

*Slide 14, Recommendation 6: Mary Ann Pesce asked whether the products designed for on-site consumption pose safety issues if they are diverted elsewhere, such as through theft. Michael Latulippe suggested that the tracking of the marijuana supply in general and loss prevention plans reached between establishments and municipalities could reduce this risk. Robert McConnaughey stated his understanding that this recommendation contemplates single serve packaging, which is a higher standard than at a package store establishment. Kim Napoli added that her working group is recommending a robust security protocol.

*Motion made by Michael Latulippe to vote to approve recommendation 6 on Slide 14. The motion was seconded by Horace Small. The members approved the recommendation unanimously.

*Motion made by Michael Dundas to vote to approve recommendation 7 on Slide 14. The motion was seconded by Ray Berry. The members approved the recommendation unanimously.

*Motion made by Mary Ann Pesce to vote to approve recommendation 8 on Slide 14. The motion was seconded by Ray Berry. The members approved the recommendation unanimously.

*Motion made by Mary Ann Pesce to vote to approve recommendation 9 on Slide 14. The motion was seconded by Horace Small. The members approved the recommendation unanimously.

Closing Remarks:

*Robert McConnaughey noted he expects there to be a quick turn around on the following recommendations and provided some proposed dates for an additional meeting.

*Motion made by Mary Ann Pesce to vote to adjourn the meeting at 2:30 PM. The motion was seconded by Michael Dundas. The vote to adjourn the meeting was unanimous.

Appendix

Approved Recommendations

Slide 7

Issue: What limits should be placed on consumption per individual?

Recommendation 1: The Commission should develop state limits on “Serving Size” as well as the maximum amount of servings allowed per immediate use package.

Recommendation 2: The Commission should implement a Daily Maximum Exposure up to 0.35 ounces (or combination equivalent) in onsite retailers based on current Department of Public Health laboratory protocols.

Recommendation 3: The Commission should set how many servings are allowed per immediate use container but allow municipalities to raise or lower that limitation to suit their own public health and safety concerns.

Slide 8

Issue: How would such limits be monitored?

Recommendation 5: Onsite consumption retail agents should be trained in detecting impairment in consumers so that they can cut anyone off who is becoming visibly intoxicated similar to how bar tenders manage alcohol intoxication.

Slide 9

Issue: What routes of delivery/ types of consumption should be allowed on-site?

Recommendation 1: The Commission should develop onsite consumption retailers in tiered licensing for every type of consumption possible (Inhalation, Ingestion, Dermal) as well as one onsite retailer license that encompasses all types of onsite marijuana consumption. This should be done similar to how alcohol licenses are regulated with combinations of wine and beer or hard alcoholic liquors.

Slide 11

Issue: What should municipalities’ role be in governing social consumption?

Recommendation 1: We recommend municipalities role in governing social consumption should be similar to how municipalities regulate any other marijuana establishment.

Slide 13

Issue: What elements should be considered at the state level?

Recommendation 1: Develop a minimum threshold for a business to apply to become an onsite consumption marijuana retailer. We propose that businesses can apply to become an onsite consumption marijuana retailer in cases where at least 51% of the business will be marijuana sales

Recommendation 2: Recommend the Commission provide framework for special exceptions possible for clubs, hotels, restaurants and any other applicant the Commission feels is appropriate.

Slide 14

Issue: What elements should be considered at the state level? (continued)

Recommendation 6: The Commission should develop reusable packaging standards and cleaning standards for onsite usage.

Recommendation 7: The Commission should develop Strong Air Quality and Ventilation Standards as well as employee protections based on tobacco bars and existing businesses requiring ventilation.

Recommendation 8: The Commission should work with experts and other stakeholders to develop onsite consumption retail agent training standards to detect impairment.

Recommendation 9: The Commission should develop with law enforcement impairment standards for OUI and also require OUI warnings and educational materials within onsite consumption retailers.