

Commonwealth of Massachusetts



**Cannabis Industry Sub-Committee Meeting:
DRAFT Recommendations**

November 27, 2017



Agenda



- Call to order
- Roll call
- Approve Minutes
- Topics for discussion:
 - Working group updates
 - Social Consumptions Recommendations: Michael Latulippe
 - Seed-to-Sale Tracking and Tier Measurement: John Lebeaux
 - Licensing, Registration, and Manufacturing: Jaime Lewis
 - Review meeting schedule going forward
 - Other business
- Adjournment



Social Consumptions Recommendations: Michael Latulippe



Recommendations to Revisit



- **What limits should be placed on consumption per individual?**
- **Recommendation 4:** The Commission should monitor and audit cash transactions through a tamperproof lockbox point of sale.
- **Recommendation 5:** The Commission should require all point of sales systems within an onsite consumption retailer to warn the onsite consumption retail agent when a consumer is approaching their daily maximum exposure limit.
- **Issue: What elements should be considered at the state level?**
- **Recommendation 3:** The Commission should develop parameters for a tamperproof lockbox point of sale system that carefully monitors all retail transactions and can only be audited by the Commission.



Cultivation, Seed-to-Sale Tracking and Tier Measurement: John Lebeaux



Tier Measurement



- **QUESTION:** What measurement should be used for the tiers: Number of plants, canopy, or another measurement?
- **RELEVANT REGULATION:** Chapter 94G(4)(a1/2)(xxvii)
- **RECOMMENDATION:** Tier measurement should be based on square feet of cultivation space. “Cultivation” includes all stages of growth and thus will encompass individuals that want to clone and propagate along with facilities that may have multiple spaces that have different stages of growth.



Tier Measurement



- **QUESTION:** Using your recommended system of measurement, what should the dividing line for each tier be?
- **RELEVANT REGULATION:** Chapter 94G(4)(a1/2)(xxvii)
- **RECOMMENDATION 1:** Based on square feet of plant cultivation space. Indoor/Outdoor/Greenhouse/Hoop House/ are combined as one. Tiers are as follows:
 - (A) Tier I: Up to 1,000 square feet of plant cultivation space
 - (B) Tier II: 1,001 to 5,000 square feet of plant cultivation space
 - (C) Tier III: 5,001 to 10,000 square feet of cultivation space
 - (D) Tier IV: 10,001+ square feet (proportionate fee associated with each additional 5,000 square feet)

Fee structure should be based on a \$1 per square foot.



Tier Measurement



RECOMMENDATION 2: Craft cooperatives should be able to apply for any Tier level as long as it allowed within legislation/regulations but may be subject to any additional fees (administrative) if cooperative has multiple growing locations under one license.



Tier Measurement



- **QUESTION:** What is the subcommittee's recommendation regarding requirements for record keeping by marijuana establishments and procedures to track marijuana cultivated, processed, manufactured, delivered or sold by marijuana establishments?
- **RELEVANT REGULATION:** Chapter 94G(4)(a1/2)(xiii)
- **RECOMMENDATION 1:** Workgroup believes all growers need a seed to sale tracking system – system for tracking/technology should be publicly available to ensure that all growers have access to a tracking application/programming interface seed-to-sale tracking system. Access to the system should not be prohibitively expensive for all Tiers of producers. Requirements should mimic the current medical regulations for all producers.



Tier Measurement



RECOMMENDATION 2: The Commonwealth should immediately re-initiate a competitive bidding process to both qualify and select an organization that can provide a comprehensive tracking system.



Tier Measurement



- **QUESTION:** What are the subcommittee's recommendations regarding minimum standards for the requirement that all licensees possess and operate an interoperable publicly available application programming interface seed-to-sale tracking system sufficient to ensure the appropriate track and trace of all marijuana cultivated, processed or manufactured pursuant to this chapter?
- **RELEVANT REGULATION:** Chapter 94G(4)(a1/2)(xvii)
- **RECOMMENDATION 1:** Use existing medical model for all cultivation; insure outdoor standards match medical for product safety; develop best ag practices for indoor and outdoor cultivation.



Tier Measurement



RECOMMENDATION 2:

Testing: The Commonwealth should not lower any testing requirements for any class of cannabis producer. The current medical marijuana testing requirements as implemented by the Department of Public Health are supported by years of research and stakeholder collaboration. They should be applied to adult-use products.



Tier Measurement



RECOMMENDATION 3:

All cannabis product producers shall be subject to all DPH testing requirements.



Tier Measurement



RECOMMENDATION 4:

All cannabis producers shall be subject to additional existing agricultural regulations: nutrient management, pesticide regulations, etc.

- <https://www.mass.gov/lists/333-cmr> (Pesticide regulations)
- <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXIX/Chapter132B> (Massachusetts Pesticide Control Act)
- <http://www.mass.gov/eea/docs/agr/pesticides/docs/plant-nutrient-regulations.pdf> (Plant Nutrient Regulations)
- <https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter262> (An Act Relative to the Regulation of Plant Nutrients)



RECOMMENDATION 5:

MDAR will consult with growers, state agencies, universities, and other stakeholders regarding best management cultivation practices that should be encouraged. These best management practices may include but not be limited to:

- **compost any waste materials**
- **energy usage**
- **nutrient management**
- **Etc.**



Licensing, Registration, and Manufacturing: Jaime Lewis



Licensing, Registration, and Manufacturing



- The legislation calls for virtual separation of medical and adult use marijuana – how should this be done?
- Issue(s) Presented - The method by which Marijuana establishments may serve both patient and adult populations from a single retail location.
 - Recommendation - Virtual Separation of medical and adult use marijuana should be done at the point of sale. All patrons (adult use or medical) who enter a dispensary that retails both medical and adult use marijuana must either display a valid government ID certifying that they are 21 years of age or older; or a valid Massachusetts Medical Use of Marijuana Program card (patient or caregiver). At the point of sale, all co-located retail medical/adult use marijuana establishments will be required to possess and operate software capable of tracking and distinguishing sales for adult use and medical patients.



Licensing, Registration, and Manufacturing, continued



- The legislation prohibits individuals under 21 being allowed on the premises of a Retail Marijuana Establishment, but how will registered qualifying patients over 18 but under 21 have access to medication?
- Issue(s) Presented - Does a registered patient 18-20 being onsite of a Retail Marijuana Establishment run afoul of Chapter 55?
 - Recommendation - There is no necessity for registered qualifying patients under the age of 18 to be on the premises of a Retail Marijuana Establishment that does not also offer Medical Marijuana. Access to medication at a marijuana establishment that retails both adult use and medical cannabis will be facilitated by virtual separation.



Licensing, Registration, and Manufacturing, continued



- What energy, environmental, and waste disposal standards for licensure and licensure renewal of marijuana establishments licensed as a marijuana cultivator or marijuana product manufacturer does the subcommittee recommend?
- Issue(s) Presented - Should there be minimum standards for energy, environmental, and waste disposal standards tied to licensure and renewal of marijuana business establishments and, if so, what are they?
 - Recommendation - adopt existing DPH waste disposal standards as identified in 105 CMR 720.105 (J) (p.31). Energy and environmental standards must, at a minimum, be commensurate with Municipal Requirements. *See 105 CMR 725.600 (p.50).*



Licensing, Registration, and Manufacturing, continued



- What standards for manufacturing or extracting cannabinoid oils or hydrocarbon solvent does the subcommittee recommend?
- Issue(s) Presented - Should the regulations specify minimum safety standards for specified types of hydrocarbon solvent extraction systems?
 - Recommendation - the CCC should adopt an industry standard in line with the National Fire Protection Association's guidance on extraction and Marijuana Facilities.
 - Existing operators should be given a grace period of time in order to get current facilities up to the new code.
 - See [Colorado Fire Marshals' Special Task Group Marijuana Facility Guidance](#)
 - See [Denver, CO Marijuana Extraction Facility Fire Code](#)



Licensing, Registration, and Manufacturing, continued



- What recommendations do you have regarding the regulations of these ancillary businesses and are there other ancillary businesses that should be considered?
- Issue(s) Presented – outside of the 3 primary licenses contemplated in Chapter 55, are there other types of cannabis related businesses that should be licensed and regulated, and if so, how?
 - Recommendation –
 1. The CCC should adopt the proposed amendments to 105 CMR 725 as they relate to Independent Testing Labs and Lab Agents (re: required registration).
 2. All ancillary businesses that come in **direct contact** with cannabis should be licensed with the state. These include transportation, storage, and distribution businesses (among others TBD). All employees should be subject to the same registration and training requirements for similarly situated marijuana establishment employees.



Licensing, Registration, and Manufacturing, continued



3. We recommend adopting a licensing and regulation structure similar to [Colorado's Transporter Licenses](#). The license is valid for 5 years. A licensed transporter provides logistics, distribution, and storage of marijuana and marijuana products. A transporter may contract with multiple businesses and may hold another marijuana license. They must use and have access to seed-to-sale tracking.
4. Ancillary businesses that **do not** come in direct contact with cannabis may register with the CCC and receive an accreditation so as to protect Massachusetts consumers and businesses from predatory entities. This accreditation applies to any entity purporting to cater to the cannabis industry.
5. The CCC should maintain a comprehensive list of those registered and accredited with the CCC as well as a list of businesses found to be predatory or unscrupulous so that consumers and businesses may collect reliable information prior to engaging their services.
6. Accreditation/Registration for ancillary businesses that **do not** come into direct contact with cannabis should be optional.



Licensing, Registration, and Manufacturing, continued



- What training requirements should there be for retail dispensary and cultivation/processing employees?
- Issue(s) Presented – the creation of standards performance expectations for the benefit of employees, patients, and consumers.
 - Recommendation –
 1. The CCC should adopt a statewide program similar to Colorado's [Responsible Vendor Program](#). The program, or similar programs, must be approved by the CCC. Employee participation in this program is mandatory, but an employee may elect to attend in person, or via internet. Employers may offer their own in-house training in place of the Responsible Vendor Training, as long as it meets minimum program requirements as set by the CCC and is reviewed annually by the CCC.
 2. The subcommittee en banc should consider whether or not Employees who choose to take this course on their own, prior to becoming employed, may apply for a waiver of course fee by showing financial hardship (as to be determined by the CCC).



Licensing, Registration, and Manufacturing, continued



3. The vendor training applies to all employees involved in the selling or handling of marijuana products. Administrative employees and others who do not come into direct contact with marijuana or marijuana products are not required to take this course (but may do so voluntarily).
4. New employees must be certified within 90 days of hire. Each individual certification lasts for 2 years, employees must recertify then as a condition of employment.
5. The program is designed to bolster industry-wide safety, security, integrity, and transparency standards.



Licensing, Registration, and Manufacturing, continued



- **We recommend the consideration of adopting the updated 105 CMR 725 with modifications necessary to support the adult use industry as well including:**
 - 105 CMR 725.100 – Registration of Registered Marijuana Dispensaries
 - 105 CMR 725.105 – Operational Requirements for Registered Marijuana Dispensaries
 - 105 CMR 725.300 – Inspection of Registered Marijuana Dispensaries
 - 105 CMR 725.400 – Grounds for Denial of Initial Application for Registration
 - 105 CMR 725.405 – Grounds for Denial of Renewal Application and Revocation
 - And other relevant Sections as identified by the Subcommittee.



Appendix: Approved Recommendations





Social Consumption Recommendations



Draft regulations circulated regarding onsite consumption retailers are a blend of existing statute and regulations for alcohol and tobacco consumption.

MGL Chapter 138 - Alcoholic Liquors

Provisions Concerning the Issuance of a Smoking Bar Permit can be found at 830 CMR 270.1.1



Social Consumption Recommendations



- The package marijuana store model is dated and old fashioned but our new marijuana law is not.
- Chapter 55 Section 26 (a 1/2) (iv): procedures and policies to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement and to positively impact those communities;
- Chapter 94G Section 4(b) In furtherance of the intent of this act, the commission may also adopt regulations in accordance with chapter 30A of the General Laws which: (1) establish and provide for issuance of additional types or classes of licenses to operate marijuana-related businesses, including licenses that authorize only limited cultivation, processing, manufacture, possession or storage of marijuana or marijuana products, limited delivery of marijuana or marijuana products to consumers, licenses that authorize the consumption of marijuana or marijuana products on the premises where sold, licenses that authorize the consumption of marijuana at special events in limited areas and for a limited time and licenses intended to facilitate scientific research or education;



Social Consumption Recommendations



- **Package store only cannabis retailer models like Washington state and Colorado fail two points of the Cole Memorandum.**
- **Travelers are being forced to buy quantities above what they can use at any one time encourages waste and state to state trafficking of marijuana products.**
- **Consumers who do not wish to expose their children or pets to marijuana by bringing marijuana products home with them currently have no outlet in package store only model states and are forced to bring these marijuana products home with them exposing their children, pets, and unsuspecting members of their household to danger.**



Social Consumption Recommendations



- **What limits should be placed on consumption per individual?**
- **Issue 1: We found serving size limitations were the easiest to accomplish through packaging and dosage standards that creates no tracking and confidentiality issues, allows for the largest variety of onsite consumption business models, and ensures maximum revenue for the state and the retailer.**
- **Recommendation 1: The Commission should develop state limits on “Serving Size” as well as the maximum amount of servings allowed per immediate use package. APPROVED**
- **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. APPROVED**
- **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. APPROVED**



Social Consumption Recommendations



- **How would such limits be monitored?**
- **Issue: Confidentiality is extremely important and the statute does not allow the state to collect any information but the age of the consumer.**
- **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. APPROVED**



Social Consumption Recommendations



- **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. APPROVED**



Social Consumption Recommendations



- **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.**

APPROVED



Social Consumption Recommendations



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



Social Consumption Recommendations



- **Issue: What elements should be considered at the state level?**
- **Recommendation 6: The Commission should develop reusable packaging standards and cleaning standards for onsite usage.**
APPROVED
- **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.** **APPROVED**
- **Recommendation 8: The Commission should work with experts and other stakeholders to develop onsite consumption retail agent training standards to detect impairment.** **APPROVED**
- **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.**
APPROVED



Social Consumption Recommendations



- **Issue: Is smoking allowed, how do you protect employees from secondhand smoke?**
- **Recommendation 2: The Commission should develop strong air quality, odor control, and filtration requirements for designated smoking areas within onsite consumption marijuana retailers. APPROVED**
- **Recommendation 3: The Commission should utilize any relevant language in 105 CMR 661.00: Regulations Implementing M.G.L.c.270, § 22 as a guide when developing regulations to protect employees from second hand smoke. APPROVED**
- **Recommendation 4: The Commission should prohibit employees from the handling of machinery or kitchen equipment within an onsite consumption space contained inside an onsite consumption retailer. APPROVED**



Social Consumption Recommendations



- **Should it be narrower, broader, or the same as the ability to regulate time/location/manner of operations that municipalities have over other marijuana establishments?**
- **Marijuana establishments = lawful, non-medical**
- **Issue: Broader municipal control could lead to bottlenecks and municipalities regulating out the possibility of these businesses. Narrower municipal control risks inflaming the municipalities against these businesses coming into their communities. Simplifying this for municipalities by keeping it similar to how they regulate other establishments will prevent confusion and allow a faster roll out.**
- **Recommendation 3: The Commission should develop guidance for municipalities on developing short term event permits for offsite consumption similar to an alcohol consumption permit given by a municipality. APPROVED**



Social Consumption Recommendations



- **Issue: What are the minimum essential components of social consumption regulations that need to be addressed initially in order to have a functioning program?**

- **APPROVED**

- **Recommendation 1: Minimum essential components include the following:**
 - Onsite consumption marijuana retailer license categories and fees
 - As a part of the education of staff, we recommend including Maximum Suggested Daily Exposure in onsite retailers based on standards set in the laboratory protocols
 - Security protocols (i.e. ensuring not serving people under 21)
 - Employee training to detect impairment
 - Zoning guidance for municipalities including what they can request of applicants and also what they can prohibit
 - Serving size and amount of servings per onsite use package requirements
 - Point of sale system with revenue tracking
 - Law enforcement and public safety guidance



Social Consumption Recommendations



- **Labeling menu and re-usable packaging standards that differ from traditional cannabis package stores**
- **Public health limitations and inspections**
- **Air quality and filtration standards as well as odor control requirements**
- **Equipment safety, cleaning, and inspection requirements including prohibitions on some equipment that maybe dangerous to public safety. i.e. blow torches**
- **Disposal/Recycling requirements**
- **Kitchen inspections including local municipal guidance**
- **Providing guardrails for professionals and licensed businesses so they don't lose their license allowing onsite consumption**



Social Consumption Recommendations



- **Recommendation 2:** The Commission should require all cannabis used in any licensed onsite consumption retailer must come from the regulated market including but not limited to licensed adult use cultivation centers, manufacturers, cooperatives, or medical marijuana treatment centers that are co-located. **APPROVED**
- **Recommendation 4:** The Commission should require reusable containers for onsite consumption retailers to alleviate any environmental issues, children home access, and state to state drug trafficking concerns. **APPROVED**



Social Consumption Recommendations



- **Recommendation 5:** The Commission should keep financial barriers to entry low for obtaining an onsite consumption retailer license to ensure local level interest. **APPROVED**
- **Recommendation 6:** The Commission should give priority to onsite consumption marijuana retailer license applicants that are proposed for areas of the state heavily impacted by the drug war. **APPROVED**
- **Recommendation 7:** The Commission should not require small gatherings of adults within onsite consumption retailers to acquire a special event license. The retailer is already managing state and local compliance so events under the maximum capacity of the retailer should not require special attention from the state.
- **APPROVED**



Packaging: Shanel Lindsay



Packaging



- Does the subcommittee have recommendations for the requirements for the packaging of marijuana and marijuana products that are required, under the law to, at a minimum...
- Issue 1: Creating a packaging protocol that ensures safety and properly educates consumers.
- Recommendation 1: Use current DPH regulations as a starting point; Require MIPs to disclose what kind of cannabis material was used to produce.
 - Proposed regulations included as an Appendix

APPROVED



Appendix: Draft Regulations

