
OLR Bill Analysis

sHB 5329

AN ACT CONCERNING CANNABIS.

SUMMARY

This bill makes several changes to the regulation and licensing of adult use (recreational) cannabis. It:

1. imposes additional (a) limitations on when cannabis may be gifted, sold, or transferred; and (b) penalties for violating these restrictions;
2. allows a cultivator to create up to two equity joint ventures, which must be approved by the Social Equity Council and licensed by the Department of Consumer Protection (DCP);
3. sets a deadline of within 14 months from when DCP granted the license for certain producers or dispensary facilities to create the needed equity joint ventures (two for producers and one for dispensary facilities) before being liable for the full conversion fee;
4. prohibits the Social Equity Council from approving any equity joint venture applicant that shares any individual owner with another equity joint venture that meets the social equity applicant criteria;
5. prohibits cannabis billboard advertisements;
6. exempts certain outdoor business signs posted at a cannabis establishment from certain signage requirements;
7. eliminates the density cap that prohibits a municipality from granting zoning approval for more retailers or micro-cultivators based on the number of municipal residents; and

8. establishes a working group to study regulating hemp and the possibility of including it in the state's cannabis program.

EFFECTIVE DATE: July 1, 2022, except the provisions on equity joint ventures, the municipal density cap, and the working group are effective upon passage.

§§ 2-4 — PROHIBITION ON CERTAIN GIFTS, SALES, AND TRANSFERS

Currently, consumers (i.e., people age 21 or older) may give cannabis to other consumers for free (i.e., without compensation or consideration) if the giver reasonably believes that the other person may possess the cannabis without exceeding the Responsible and Equitable Regulation of Adult-Use Cannabis Act's possession limit. The bill limits this allowance by prohibiting individuals from gifting, selling, or transferring cannabis to another person:

1. to induce, or in exchange for, any donation for any purpose, including any charitable donation or any donation made to gain admission to any event;
2. at any location, other than a dispensary facility, retailer, or hybrid-retailer, (a) where a consumer may purchase any item other than cannabis, a cannabis product, or services related to cannabis, or (b) that requires consideration, including membership in any club, to gain admission to the location; or
3. as part of any giveaway associated with attendance at any event, including a door prize, goodie bag, or swag bag.

The bill allows people with a bona fide social relationship to give cannabis to one another if the gift is made without consideration and is not associated with a commercial transaction.

Fines

In addition to any existing penalty, anyone who violates this provision is subject to:

1. a municipal fine the bill allows to be locally adopted, which may

be up to \$2,500 per violation (see below);

2. a Department of Emergency Services and Public Protection (DESPP) fine of \$2,500 per offense, which is payable by mail without appearing in court; and
3. an administrative hearing held by the Department of Revenue Services (DRS) commissioner for failing to pay taxes, which may result in a civil penalty of up to \$1,000 per violation.

Under the bill, “per offense” and “per violation” mean either per transaction or per day the violation continues, as the DESPP or DRS commissioner determine for the respective violation.

The bill allows any municipality to establish, by ordinance, a fine for violating the bill’s gift, sale, and transfer provisions (§ 3). Any police officer or other person the municipal chief executive officer authorizes may issue a citation to anyone who commits a violation. Any municipality that adopts this type of ordinance must also adopt a citation hearing procedure. Any municipal fine must be deposited into the municipality’s general fund or in a designated special fund.

§§ 5-8 — EQUITY JOINT VENTURE

Cultivators (§ 5)

The bill allows a licensed cultivator to create up to two equity joint ventures, subject to Social Equity Council approval and DCP licensing requirements. The equity joint venture must be in any cannabis establishment business other than a cultivator license. By law, a “cannabis establishment” is a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana), food and beverage manufacturer, product manufacturer or packager, delivery service, or transporter.

Application Procedure and Contents. Substantially similar to existing law for equity joint ventures for producers and dispensary facilities, the bill requires the equity joint venture applicant to submit to the council information that allows the council to determine the

venture's ownership terms, including the organizing documents outlining each backer's ownership stake, initial investment, and payout information. They may also include evidence of business formation, ownership allocation, ownership and financing terms, and proof of social equity applicant involvement.

Upon receiving the council's written approval, the equity joint venture applicant must apply for a DCP license in the same form as required by other cultivators, except the application is not subject to the lottery.

Ownership and Location Limits. The bill prohibits a cultivator, including its backer, from increasing its ownership in an equity joint venture to more than 50% in the seven years after DCP issues a license. It also prohibits equity joint ventures that share a common cultivator or backer from being located within 20 miles of another commonly owned equity joint venture.

Financial Ratio. The bill requires an equity joint venture applicant to pay 50% of any applicable fee (the full fee is \$25,000 for a provisional license and \$75,000 for a license or renewal) for the first three renewal cycles and then the full amount after that.

Producers and Dispensary Facilities (§§ 6 & 7)

Ownership. By law, producers seeking a license expansion and dispensary facilities seeking to convert to a hybrid retailer can pay reduced fees in exchange for creating a certain number of equity joint ventures (i.e., two for producers and one for dispensaries). Under current law, these equity joint ventures require the social equity applicant to own at least 50% of the business. The bill instead requires the equity joint venture to be at least 50% owned and controlled by an individual or individuals who meet, or the equity joint venture applicant is an individual who meets, the social equity applicant criteria.

By law, a social equity applicant is an individual who (1) had average household income of less than 300% of the state median over the three tax years immediately before the application and (2) was a resident of a

disproportionately impacted area for at least (a) five of the 10 immediately preceding years or (b) nine years before he or she turned age 18. It can also be a person (e.g., business entity) that is at least 65% owned and controlled by an individual or individuals who meet these criteria.

Fee Deadline. Under current law, if a producer or dispensary pays the reduced expansion or conversion fee but does not subsequently create the required equity joint ventures, it is liable for the full fee amount (i.e., \$3 million for producers and \$1 million for dispensary facilities). The bill specifies that (1) this must be done within 14 months after DCP approves the license expansion or conversion and gives a final license and (2) the amount due is minus the paid reduced conversion fee.

Limitations. The bill limits producers and dispensary facilities that receive approval to expand or convert to creating two equity joint ventures. They may not apply for, or create, any additional equity joint ventures if, upon the bill's passage, the producer or facility has created at least two equity joint ventures that have received a provisional license.

Financial Ratio. The bill requires an equity joint venture applicant to pay 50% of any applicable fee for the first three renewal cycles and then the full amount thereafter. By law, the reduced conversion fee is \$1.5 million for producers and \$500,000 for dispensary facilities, with an annual renewal fee of \$75,000 for the former and \$25,000 for the latter (CGS § 21a-420e(d) and Conn. Agencies Regs., § 21a-408-29).

Sharing Ownership (§ 8)

The bill prohibits the Social Equity Council from approving any equity joint venture applicant that shares any individual owner with another equity joint venture that meets the social equity applicant criteria (see above).

§ 9 — ADVERTISEMENTS

The bill prohibits cannabis establishments and any person

advertising cannabis or related services to advertise on a billboard. Currently, they are allowed to if the advertiser has reliable evidence that at least 90% of the audience is reasonably expected to be at least 21.

It also specifies that it is prohibited to advertise cannabis or cannabis paraphernalia, goods, or services through a business name or logo in a way that targets or is designed to appeal to those under age 21.

The bill exempts outdoor business signs posted at a cannabis establishment from the required warning against underage use if they meet certain criteria. Under this specified criteria, the bill also deems any outdoor sign, other than a billboard, and including any monument, pylon, or wayfinding sign compliant with existing law's audience requirement (i.e., at least 90% of the audience is expected to be over age 21). To qualify for either provision, an outdoor sign must:

1. contain only the name and logo of a (a) cannabis establishment or (b) business entity advertising cannabis paraphernalia, goods, or services;
2. have no more than three colors; and
3. be located on (a) the cannabis establishment's or such business entity's premises, regardless of whether they lease or own the premises; or (b) a commercial property occupied by multiple tenants, including the cannabis establishment or business entity.

§ 10 — DENSITY CAP

The bill eliminates the density cap provisions that (1) until June 30, 2024, limit the number of retailers and micro-cultivators in proportion to the number of municipal residents and (2) after July 1, 2024, allow the DCP commissioner to set a cap.

Under current law, until June 30, 2024, there is a density cap of one retailer and one micro-cultivator for every 25,000 residents, as determined by the 2020 census. Municipalities are prohibited from granting zoning approval for more retailers or micro-cultivators than the cap allows. Currently, beginning July 1, 2024, the DCP commissioner

may set a density cap and post it on DCP's website. If she does, municipalities are then prohibited from granting zoning approval for more establishments than the cap allows.

§ 11 — HEMP WORKING GROUP

By September 1, 2022, the bill requires the General Law Committee chairpersons to convene a working group to study:

1. hemp regulation,
2. the possibility of including hemp in the state's cannabis program, and
3. any other topic relevant to hemp production and regulation.

The General Law chairpersons must serve as the working group chairpersons, and jointly appoint as working group members:

1. representatives from DCP, the Connecticut Farm Bureau, and cannabis industry; and
2. General Assembly members from rural districts.

The bill requires the General Law Committee's administrative staff to serve as the working group's administrative staff.

By January 1, 2023, the working group must submit a report on its findings and recommendations to the General Law Committee. The working group must terminate on the day it submits the report or January 1, 2023, whichever is later.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 15 Nay 3 (03/15/2022)