Testimony from 4Front Ventures

In SUPPORT of S.B. 16, An Act Concerning The Adult Use Of Cannabis

Honorable members of the Judiciary Committee,

We at 4Front Ventures ("4Front") thank you for the opportunity to comment on S.B. 16, An Act Concerning The Adult Use Of Cannabis. We are a cannabis operator, founded in 2011 and now with cultivation facilities and dispensaries in eight states.¹ This does not include Connecticut, so we have no financial interests in the existing medical marijuana industry, and are offering this testimony as experts in the national industry who would like to help Connecticut learn from the experiences of other states. Our government relations director Sam Tracy was born and raised in Connecticut, including participating in the General Assembly’s Legislative Internship Program during the 2011 session, so we are particularly familiar with current state law and are interested in helping you regulate cannabis for adults.²

Regulating marijuana like alcohol is the right choice for Connecticut, since it would:

- **Protect public health**, as requirements for testing and labeling all cannabis products would protect consumers from mold, harmful pesticides, and other contaminants. As we have recently seen with the vaping crisis, where illicit market products tainted with the additive Vitamin E Acetate have caused acute lung injury,³ prohibition makes cannabis products more dangerous, not less.
- **Drive economic development**, bringing a massive industry into the light. Workers would be covered by the minimum wage and other workplace protection laws, businesses would be able to attract new talent and investment, and entrepreneurs could open new businesses without fear of criminalization.
- **React to regional realities**, since Connecticut residents over 21 years of age are already able to purchase cannabis legally in neighboring Massachusetts, making Connecticut’s prohibition even more ineffective while allowing Massachusetts to capture all of the tax revenue and employment gains that legalization brings.
- **Respect the will of the voters**, as 71% of Connecticut residents support legalizing marijuana for adults.⁴

Our following comments include an overview of the best parts of this bill that we encourage the General Assembly to keep, and a selection of concerns that we have with the draft language and recommendations for how to improve them. The goal of our testimony is to help the Judiciary Committee and the General Assembly create an adult use program that serves responsible consumers, creates an equitable and competitive industry, and protects public health and safety.

**Best Parts of Current Draft That Should Be Kept**

**Expungement Program**
Section 4 and Section 5 of the bill establish procedures for erasing records of convictions for cannabis offenses obtained before legalization. This is a necessary part of any good adult use cannabis bill, righting the wrongs of prohibition.

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¹ See www.4FrontVentures.com for more information.
² Sam Tracy also served as the director of the Connecticut Coalition to Regulate Marijuana during the 2017 and 2018 legislative sessions, including providing extensive testimony at public hearings before this and other committees.
Social Equity Provisions
Section 18 establishes the Cannabis Equity Commission, and we appreciate the creation of this body that will have a strong hand in crafting future statutes and regulations for the adult use cannabis industry. Our one recommendation is that this Commission should include members with experience in the cannabis industry or advocacy movement, since it is a very unique industry with special policy challenges that experts in other sectors may not understand. To keep an odd number of members, you could create two additional positions: one for someone with experience in the cannabis industry, and another with experience in cannabis policy obtained while working with a non-profit organization.

It is also fantastic to have the definition of “equity applicant” include not only individuals arrested for or convicted of a cannabis offense, but also those individuals’ parents and children. Involvement in the criminal justice system impacts entire families, so it makes sense to include these immediate family members in the definitions for equity applicants.

Protections for Medical Marijuana Patients
Patient access should not be interrupted during the transition to an adult use program. We appreciate that SB 16 requires licensees to “maintain priority access of product to qualifying patients” and provides an opportunity for patients “to purchase cannabis products of higher potency and in a larger amount than generally available for retail purchase.” Together, these will help patients keep access to their medicine, and free them from regulations that make sense for adult consumers but not for patients.

Ban on Community Host Agreements
We appreciate the explicit ban on host community agreements included in SB 16, as HCAs have been one of the major hurdles to implementing cannabis legalization in Massachusetts. As 4Front president Kris Krane wrote in Forbes,

“Perhaps Massachusetts' most fatal mistake was mandating that all applicants receive a “Host Community Agreement” (HCA) signed by the city or town in which they plan to locate. The law purposefully made it difficult for towns to ban cannabis businesses, requiring a vote of the town’s residents in most cases. Yet the HCA requirement has served as a de facto ban, with towns simply refusing to grant them as a means to keep cannabis businesses out. When they are willing to grant HCAs, municipalities often go to the highest bidder, disadvantaging smaller and mom-and-pop startups.”

Concerns And Recommendations For Improvements
Potential Drafting Error: Cultivation Recommendations Are Unclear Language:

(24) Determine whether a license for cannabis cultivation facilities is necessary or whether the producer license shall be the sole license under which the cultivation of cannabis may occur in this state. If the department determines that a cannabis cultivation license is necessary, it shall also make recommendations to:

(25) Determine the number of such facilities that may be licensed in this state to meet the needs of consumers;

Concern: Section 24 (a) (24) seems intended to have an indented list under it, but it goes straight to Sec. 24 (a) (25). It appears that items 25-30 may have been intended to be A-F, as they are specifically about the cultivation license considered under item 24.

Suggested solution: Determine which clauses are dependent on whether cannabis cultivation licenses are necessary, and indent them using letters instead of numbers.

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5 Section 19 (b) (1), lines 1416-1428.
6 Section 24 (a) (47), lines 1734-1736.
7 Section 32 (a), lines 1955-1960.
8 Section 37 (a), lines 1833-1836.
10 Lines 1632-1638.
Timeline is Insufficient, Cannabis Commerce Could Begin Sooner

Language:

Sec. 21. (NEW) (Effective July 1, 2022) (a) A producer in good standing may acquire, sell, deliver or transport cannabis or cannabis products to cannabis establishments...¹¹

Sec. 22. (NEW) (Effective July 1, 2022) On and after July 1, 2022, the department may issue a license to a person to be a cannabis retailer.¹²

Sec. 25. (NEW) (Effective July 1, 2022) (a) On and after the effective date of this section, the department may issue or renew a license for a person to be a cannabis product manufacturing facility.¹³

Concern: As drafted, the legislation also seems to require additional legislation to be passed during the 2021 legislative session in order for licensing and regulation of the adult use cannabis industry to truly begin. This is worrying, as it will be a newly elected legislature with no guarantee of actions continuing this legislature's work, and even if action is taken, it shifts the timeline significantly into the future.

As drafted, cannabis commerce would not begin until July 1, 2022, which would be about 26 months after the end of this legislative session. During this time, the illicit market and all its harms would continue in Connecticut, and the state would continue to lose business and tax revenue to neighboring Massachusetts. By contrast, Illinois had only 7 months between its bill passage on June 25, 2019, and the beginning of adult use sales on January 1, 2020.

Suggested solution: Rather than requiring the Social Equity Commission and DCP to make recommendations for legislation by January 1, 2021, instead give them enough authority in this bill to create regulations and begin issuing licenses without additional legislative action in future years.

Allow the current medical marijuana producers and dispensaries to begin selling cannabis on the adult use market beginning January 1, 2021. This could be done through an expedited process where existing licensees apply to DCP for an adult use endorsement. Aim to issue new licenses by July 1, 2021.

Competition in Cultivation Sector is Necessary

Language:

(Effective July 1, 2022) (a) A producer in good standing may acquire, sell, deliver or transport cannabis or cannabis products to cannabis establishments, laboratories and research programs.¹⁴

[DCP will make written recommendations including to] (24) Determine whether a license for cannabis cultivation facilities is necessary or whether the producer license shall be the sole license under which the cultivation of cannabis may occur in this state.¹⁵

Concern: As drafted, this appears to guarantee that the existing medical marijuana producers will be able to transition to the adult use market, but only provide a chance that additional businesses will be allowed to enter. As only four companies are currently licensed as producers in the medical program, this would create an oligopoly, leading to lower product quality and less variety for consumers, and no opportunity for entrepreneurs to create their own cultivation businesses. Lower product quality will lead consumers to keep purchasing from the illicit market, lessening the benefits of regulation, while preventing new businesses runs counter to the social equity goals of this legislation.

Suggested solution: Require that a cannabis cultivation license be created, and issue them along with the new manufacturing and retail licenses. Producers should be able to transition to the adult use market, but not prevent others from entering the market afterwards.

Local Control is Too Broad, Would Hamper Market

Language:

¹¹ Lines 1477-1479.
¹² Lines 1484-1485.
¹³ Lines 1751-1753.
¹⁴ Lines 1477-1479.
¹⁵ Lines 1632-1634.
(Effective July 1, 2020) (a) Any municipality may, by amendment to such municipality’s zoning regulations or ordinances, prohibit the establishment of a cannabis establishment, except for a dispensary facility or producer, or establish reasonable restrictions regarding the hours and signage within the limits of such municipality.14

Concern: Allowing local governments to ban all cannabis establishments without voter approval runs counter to public opinion on this issue, and would drastically slow the transition from the illicit market to the regulated market.

Suggested solution: Allow municipalities to ban cannabis establishments, but only following a majority vote in a referendum put to voters.

Home Cultivation is Necessary from Beginning

Language:

Sec. 36. (NEW) [Effective July 1, 2022] Not later than January 1, 2023, the department shall make written recommendations, in accordance with the provisions of section 11-4a of the general statutes, to the Governor and the joint standing committees of the General Assembly having cognizance of matters relating to consumer protection, the judiciary and finance, revenue and bonding, as to:

(1) Whether to allow consumers or qualifying patients under chapter 420f of the general statutes, who are twenty-one years of age and older, to cultivate cannabis for personal use.17

Concern: Home cultivation of a small number of cannabis plants is standard practice in other states with adult use cannabis laws,18 and is a necessary component of responsibly ending prohibition, as cultivation is currently a felony. Adults who are allowed to legally purchase and possess cannabis should not be punished for growing a small number of plants for personal use, just as adults can brew their own beer or make their own wine. Just as home brewing has not put liquor stores out of business, this will not negatively impact the cannabis industry, and it’s incredibly important for patients who are not currently allowed to grow at home under the medical marijuana program.

Suggested solution: Allow adults over 21 to grow up to six cannabis plants at home, with a limit of twelve plants per household. Adults should also be able to store any amount of cannabis in their home as long as it was cultivated on site.

Tax Rate is Overly Complex, Should be Simplified

Language:

(b) (1) Beginning on the first day of the month in which a cannabis product manufacturing facility may legally operate within the state or a producer may legally sell cannabis, there is imposed a tax on the following:

(A) On the first sale to a cannabis retailer in the state of cannabis flowers, cannabis trim or wet cannabis, at the rate of (i) one dollar and twenty-five cents per dry-weight gram of cannabis flowers, (ii) fifty cents per dry-weight gram of cannabis trim, and (iii) twenty-eight cents per gram of wet cannabis; or

(B) On the first use, by a cannabis product manufacturing facility or a producer in the manufacture or production of a cannabis product, of cannabis flowers, cannabis trim or wet cannabis, at the rate of (i) one dollar and twenty-five cents per dry-weight gram of cannabis flowers, (ii) fifty cents per dry-weight gram of cannabis trim, and (iii) twenty-eight cents per gram of wet cannabis.19

...Sec. 52. (NEW) [Effective July 1, 2022] (a) There is imposed a tax at the rate of three per cent on the gross receipts from the sale of cannabis and cannabis products by a cannabis retailer. Such tax shall be in addition to the tax imposed under section 51 of this act and chapter 219 of the general statutes.20

Concern: As drafted, there are three levels of taxes: taxes by weight when cannabis flower is sold and when cannabis is manufactured into a cannabis product, and a gross receipts tax when cannabis is sold to consumers. These three levels of taxes are more difficult for businesses to comply with. Furthermore, weight taxes incentivize the production of high-potency

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14 Lines 1799-1803.
15 Lines 2083-2099.
16 Of the 11 states that have legalized cannabis for adults, nine (Maine, Vermont, Massachusetts, Michigan, Colorado, Nevada, Oregon, Alaska, and California) allow adults over 21 to cultivate a small number of plants at home, while two (Washington and Illinois) allow medical patients to cultivate plants while forbidding cultivation for other adults. Zero states to bid home cultivation entirely.
17 Lines 2804-2818.
18 Lines 2881-2895.
cannabis flower and cannabis products by effectively taxing them at lower rates (by THC and other cannabinoid content) compared to low-potency products. Other states, such as Washington, that have begun their programs with multiple layers of taxes have later simplified them into a single gross receipts tax. 21

Suggested solution: Simplify the cannabis tax code by creating a single gross receipts tax at the point of sale. As the current gross receipts tax is reserved for municipalities, this goal could be achieved by splitting the tax revenue between the state and the host municipality at whatever ratio is deemed appropriate.

Universal Symbol Needed for Labels

Language:

(9) Require cannabis products to be sold with a warning label or handout, after consultation with researchers knowledgeable about the risks and benefits of cannabis. Such label or handout may include advice about the potential risks of cannabis and cannabis products, such as... 22

Concern: The labelling requirements do not mention a universal symbol, which is standard practice in other states with adult use cannabis laws. A universal symbol allows for quick identification of cannabis products, which helps both youth and adults avoid accidental consumption and aids in law enforcement.

Suggested solution: Add a requirement for labels to include a universal symbol for cannabis, and require that Connecticut adopt a symbol that is used in nearby states. Massachusetts and Maine have adopted the same symbol, and Connecticut following suit would establish a regional symbol that could later become a national standard.

Closing

4Front welcomes an ongoing dialog with the Judiciary Committee to help create the best cannabis laws possible for Connecticut. For any inquiries, please contact Sam Tracy, Government Relations Director, at sam.tracy@4frontventures.com.


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