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## OLR Bill Analysis

### sHB 6699

#### **AN ACT CONCERNING CANNABIS REGULATION.**

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*Establishes a task force to study the potential health, safety, and financial impact of allowing individuals who cultivate cannabis in their residences to sell, at retail, the cannabis at events*

**SUMMARY**

This bill makes various changes to the Responsible and Equitable Regulation of Adult-Use Cannabis Act (RERACA). Among other things, the bill:

1. expands the definition of cannabis flower to include the flower being chopped or ground and requires that cannabis products contain at least one other ingredient;
2. establishes an off-site event permit for a retailer or hybrid retailer to sell adult-use cannabis to consumers at locations other than their premises;
3. makes the Department of Labor (DOL) responsible for determining whether a bona fide labor organization is actively seeking to represent Connecticut cannabis workers;
4. adds more labeling and packaging requirements, including requiring that packages be child-, tamper-, and light-resistant; limiting the package's colors; prohibiting packaging from being similar to products that do not contain cannabis; and adding more warnings;
5. requires, the state healthcare advocate to designate an employee by October 1, 2023, to serve as the cannabis ombudsman to, among other things, represent the interests of qualifying medical marijuana patients and caregivers;
6. establishes a task force to study the potential health, safety, and financial impact of allowing individuals who cultivate cannabis

in their residences to sell, at retail, the cannabis at events; and

7. makes various other minor, technical, and conforming changes.

EFFECTIVE DATE: July 1, 2023, except the cannabis ombudsman and task force provisions are effective upon passage.

### **§§ 1, 4, 5 & 8 — CANNABIS DEFINITIONS**

*Expands the definition of cannabis flower to include the flower being chopped or ground and requires that certain cannabis products contain at least one other ingredient*

The bill modifies certain definitions under RERACA, including expanding “cannabis flower” to include the flower being chopped or ground and requiring that “cannabis products” contain at least one other ingredient.

Under current law, a “cannabis flower” is the flower of a plant of the genus cannabis (including abnormal and immature flowers) that has been harvested, dried, and cured, and before it is processed and transformed into a cannabis product, but not including the plant’s leaves or stem. The bill expands the definition by requiring only one specified action (e.g., harvested, dried, or cured under current law), rather than all of them. It also expands the list of actions to include the flower of the plant that has been chopped or ground.

Under current law, a “cannabis product” includes cannabis in the form of a product that contains cannabis, which may be combined with other ingredients, and is intended for use or consumption. The bill instead defines the product as containing cannabis and at least one other ingredient. It also narrows an exclusion from the “cannabis product” definition by excluding cannabis flower rather than the raw cannabis plant as under current law.

The bill also adds a definition of “edible cannabis product” (see §§ 1 & 14 below) and makes conforming changes (§§ 4, 5 & 8).

### **§§ 1-3, 6-7 & 11-12 — OFF-SITE EVENT PERMITS**

*Establishes an off-site event permit for a retailer or hybrid retailer to sell adult-use cannabis to consumers at locations other than their premises*

The bill allows DCP to issue an off-site event permit to a retailer or

hybrid retailer (i.e., someone that sells cannabis and medical marijuana products) to sell cannabis, other than medical marijuana products, to consumers at an event held in Connecticut at a location other than their premises. The bill prohibits a retailer or hybrid retailer from selling cannabis at an off-site event to any individual who is acting in his or her capacity as a medical marijuana qualifying patient or caregiver (§§ 2, 6 & 7).

Each DCP-issued permit is nonrenewable and is effective for up to three consecutive days. Under the bill, retailers and hybrid retailers may not (1) receive more than four off-site event permits during any calendar year, (2) engage in or operate more than one off-site event on any day, or (3) sell cannabis in an off-site event unless it has obtained a DCP permit.

The bill also makes conforming changes (§ 12).

***Attestation and Affirmation (§ 2(b))***

The bill requires each retailer or hybrid retailer seeking a permit to attest and affirm that (1) it has received, or will receive, all municipal approvals required to engage in off-site event sales before making sales, and (2) the off-site event is not located in a municipality that has prohibited off-site sales of cannabis. It requires DCP, without further proceedings, to immediately and summarily revoke any permit if the retailer or hybrid retailer engages in off-site event sales without having first obtained all required municipal approvals. The bill prohibits retailers and hybrid retailers from applying for an off-site event permit for one year from the revocation date.

***Written Policy (§ 2(l))***

The bill requires a retailer or hybrid retailer, before submitting an application, to establish written policies specific to off-site events in order to prevent diversion and misuse of cannabis and cannabis sales to underage individuals.

***Application (§ 2(d))***

The bill requires retailers and hybrid retailers seeking a permit to

apply to DCP as the commissioner prescribes. The application must include:

1. the retailer or hybrid retailer's name and address as they appear on the license most recently obtained from DCP;
2. the required attestation and affirmation (see above);
3. certain information about the off-site event, including the organizer's name and address and the event's date, time, and location;
4. a statement signed by the retailer or hybrid retailer certifying certain information (see below); and
5. any other information the DCP commissioner deems necessary.

**Statement.** As part of the application, a retailer or hybrid retailer must sign a statement certifying that during the event it will adhere to:

1. the retailer's or hybrid retailer's written policies for preventing diversion and misuse of cannabis and cannabis sales to underage individuals;
2. the prohibition on off-site sales of medical marijuana products;
3. the requirement that at least 90% of the audience at the off-site event is reasonably expected to be age 21 or older; and
4. all other security requirements DCP sets for off-site events based on license type.

In the signed statement, the retailer or hybrid retailer must also certify that the organizer has submitted a notice to the applicable municipality's chief elected official disclosing:

1. the application's required information about the off-site event (i.e., organizer name and address and event location and time);
2. that the retailer or hybrid retailer intends to sell cannabis to

consumers at the event; and

3. that the organizer has received, or will receive prior to engaging in off-site event sales, all approvals required under local zoning regulations.

***Application Fee (§ 2(e))***

The bill establishes a \$500 nonrefundable application fee for event permits. Fee revenue must be deposited in the General Fund.

***Municipal Authority (§ 2(f))***

The bill allows municipalities to:

1. prohibit off-site event cannabis sales;
2. establish reasonable restrictions on allowable hours and signage for cannabis sales under the off-site event permit; or
3. set restrictions on the proximity of cannabis sales under the off-site event permit to public or parochial schools, charitable institutions, hospitals, veterans' homes, or certain military establishments or religious institutions.

Under the bill, municipalities may take these steps by local ordinance or amendment to their zoning regulations. If a municipality adopts an amendment or ordinance, its chief zoning official must report the adoption to the DCP commissioner and Office of Policy and Management secretary within 14 days after it occurs, as the commissioner prescribes.

The bill prohibits a municipality from imposing a fee for filing an application or issuing a permit under the bill's offsite event provisions.

***Regulations and Policies and Procedures (§ 2(g))***

The bill requires the DCP commissioner to adopt regulations to implement the off-site event provisions. Regardless of the Uniform Administrative Procedure Act's (UAPA) notice requirements for amending regulations the commissioner must, before adopting these regulations and in order to effectuate RERACA's purposes and protect

public health and safety, issue policies and procedures to implement the off-site event provisions. These policies and procedures have the force and effect of law.

At least 15 days before the policies and procedures take effect, the bill requires the commissioner to post them on DCP's website and submit them to the secretary of the state (SOTS) to be posted on the eRegulations system. The policies and procedures are effective until the earlier of a final regulation being adopted or June 30, 2027, if the regulations have not been submitted to the Regulation Review Committee.

The bill requires that the regulations, policies, and procedures include provisions on (1) securely transporting products, (2) seed-to-sale tracking requirements, (3) consumer transaction and off-site inventory limits, (4) off-site location security requirements to protect against cannabis diversion and underage individuals' access to cannabis, and (5) off-site event advertising restrictions.

### ***Law Enforcement Use of Resources (§ 3)***

The bill extends, to offsite events for which a permit is issued, existing law's limitations on the use of law enforcement resources for cannabis-related matters. Existing law prohibits, under certain circumstances, law enforcement officers employed by an agency that receives state or local government funds from spending resources, including an officer's time, to (1) make a cannabis arrest or seizure or conduct an investigation or (2) give information or logistical support to a federal law enforcement authority or prosecuting entity. These actions are prohibited if (1) they are solely based on an activity that the officer believes constitutes a federal law violation and (2) the officer has a reasonable belief that the activity complies with the law's recreational cannabis licensure provisions or medical marijuana laws.

### ***DCP Disciplinary Actions (§ 11)***

The bill extends certain DCP cannabis disciplinary authority to off-site event permittees. Among other things, it allows the DCP commissioner, for sufficient cause, to suspend or revoke a permit, issue

finest of up to \$25,000 per violation, accept an offer in compromise, or refuse to grant a permit.

Under the bill, sufficient cause consists of failing to cooperate or give information to DCP, local law enforcement authorities, or any other enforcement agency on any matter arising out of conduct in connection with an off-site event the permittee conducts.

As under current law, the bill requires the DCP commissioner to notify an applicant upon refusing to issue a permit. The notice must also include the applicant's right to request a hearing with 10 days of receiving the notice. If the applicant requests a hearing within this period, the commissioner must (1) give notice of the grounds for the refusal and (2) conduct a hearing on the refusal under the UAPA's procedures for contested cases.

Under the bill, the voluntary surrender of a permit does not prevent the commissioner from suspending or revoking the permit or imposing other penalties the cannabis law allows.

### ***Exemption (§ 12)***

The bill adds the authorized activities under the off-site event permits to the exemption from state law's general prohibition on manufacturing, distributing, selling, prescribing, dispensing, compounding, transporting with the intent to sell or dispense, possessing with the intent to sell or dispense, offering, giving, or administering to another person cannabis or cannabis products.

### **§ 9 — PRODUCT PACKAGER**

*(1) Specifies that product packagers must use their own employees or a transporter when obtaining cannabis from certain cannabis establishments and (2) modifies where packagers may transport cannabis*

The bill specifies that a product packager must use its own employees or a transporter when obtaining cannabis from a producer, cultivator, micro-cultivator, food and beverage manufacturer, or product manufacturer. (A transporter is a person licensed to transport cannabis between cannabis establishments, laboratories, and research programs.)



Current law allows a product packager to sell, transfer, or transport cannabis to any cannabis establishment, laboratory, or research program if the packager only transports cannabis packaged at its own establishment and uses its own employees or a transporter. The bill allows the packager to perform these actions (1) to and from these places and (2) for a laboratory only for testing.

### **§ 10 — DELIVERY SERVICES**

*Limits the requirement that delivery services only use full-time employees to those with 12 or more individuals, but specifies that they must still enter into a labor peace agreement with a bona fide labor organization*

Current law requires a delivery service to use full-time employees (i.e., those who work at least 35 hours a week) to deliver cannabis. The bill limits this requirement only to services that employ at least 12 individuals to deliver cannabis. By law and unchanged by the bill, these employees must be registered with DCP, and a service may not employ more than 25 delivery employees at a time.

The bill specifies that none of its delivery services provisions excuse a service from the requirement that it enter into a labor peace agreement with a bona fide labor organization (see § 13 below).

### **§ 11 — LABORATORY LICENSE AND REGISTRATION DENIALS**

*Adds laboratory licenses and off-site event permits to the list of credentials for which certain applicants must wait one year before reapplying*

Under current law, if the DCP commissioner denies a cannabis license or registration and the denial is sustained after a hearing, an applicant may not, for one year after the denial, apply for a cannabis establishment, backer, or key employee license or an employee registration. The bill also prohibits the applicant from applying for a laboratory license or off-site event permit for one year.

### **§ 13 — BONA FIDE LABOR ORGANIZATIONS**

*Makes DOL responsible for determining whether a labor organization is bona fide; adds to the factors that must be considered for this determination*

By law, each provisional cannabis establishment licensee, as a condition of its final license approval, license conversion, or approval for expanded authorization, must enter into a labor peace agreement

with a “bona fide labor organization.”

Under current law, a bona fide labor organization is a labor union that (1) represents employees in this state regarding wages, hours, and working conditions; (2) has officers who were elected by a secret ballot or in another way consistent with federal law; (3) is free of any employer domination or interference and has not received any improper assistance or support from the employer; and (4) is actively seeking to represent cannabis workers in the state.

The bill instead defines a bona fide labor organization as one that DOL determines is actively seeking to represent cannabis workers in the state and requires DOL to develop a list of labor unions that are doing so. In making this determination, DOL must consider several factors as being indicative, but not determinative. These include the same three factors specified in current law (e.g., officers elected by secret ballot, see above). Additionally, DOL must consider whether the labor union:

1. has been recognized or certified as the bargaining representative for Connecticut cannabis employees;
2. has executed one or more current collective bargaining agreements with cannabis employers in the state;
3. has spent resources as part of one or more current and active attempts to organize and represent cannabis workers in the state;
4. for the three years immediately preceding DOL’s consideration of the labor union, has (a) filed the annual report with the U.S. Department of Labor required under federal law (29 U.S.C. § 431(b)), (b) audited financial reports covering that time period, and (c) been governed by a written constitution or bylaws; and
5. is affiliated with regional or national associations of unions, including, but not limited to, central labor councils.

A “labor peace agreement” means an agreement between a cannabis establishment and a bona fide labor organization (1) under which the establishment’s owners and managers agree not to lock out employees

and (2) prohibiting the labor organization from engaging in picketing, work stoppages, or boycotts against the cannabis establishment. Among other things, it must include a clause requiring binding arbitration by a neutral arbitrator as the exclusive remedy for any violation of the agreement.

#### **§ 14 — PROVIDING POLICIES AND PROCEDURES TO LICENSEES AND APPLICANTS**

*Requires the DCP commissioner to provide, to each cannabis licensee and applicant, policies and procedures issued to carry out RERACA's purposes and protect public health and safety*

By law, the DCP commissioner must adopt regulations to carry out RERACA's purposes and protect public health and safety. The law requires the commissioner to issue policies and procedures to implement RERACA before the regulations are adopted. And she must post the policies and procedures on the DCP website and submit them to SOTS for posting on the eRegulations System.

The bill requires the commissioner to also provide the policies and procedures, as she prescribes, to each licensee and applicant for a cannabis license.

#### **§§ 1 & 14 — LABELING AND PACKAGING**

*Adds additional labeling and packaging requirements, including requiring that packages be child-, tamper-, and light-resistant; limiting the package's colors; prohibiting packaging from being similar to products that do not contain cannabis; and having additional warnings*

Under existing law, the regulations that the commissioner must adopt (see above) must include specified labeling and packaging requirements for cannabis. The bill modifies one of these requirements and adds multiple new requirements, as described below.

##### ***Labeling and Packaging Requirements***

***Universal Symbol.*** Under current law, DCP's regulations must (1) require that cannabis labeling and packaging include a universal symbol to indicate that a product contains cannabis and (2) prescribe how the product and packaging must use and exhibit the symbol. The bill specifically requires that the labeling and packaging indicate the cannabis or cannabis product contains THC and is not legal or safe for

individuals younger than age 21.

**Resistance and Sealing.** Existing law requires that the packaging be child-resistant, including a requirement that an edible product be individually wrapped. The bill also (1) requires that the packaging be tamper-resistant and light-resistant and (2) specifies how each of these requirements must be met.

Under the bill, a package is deemed to be:

1. child-resistant if it satisfies the federal standard for special packaging, which means designed or constructed to be significantly difficult for children under age five to open within a reasonable time, but not difficult for normal adults to use (16 C.F.R. § 1700.1(b)(4));
2. tamper-resistant if the packaging has at least one barrier to, or indicator of, entry that would prevent its contents from being accessed or adulterated without indicating to a reasonable person that it had been breached; and
3. light-resistant if the packaging is entirely and uniformly opaque and protects all of its contents from the effects of light.

The bill also requires:

1. that packaging for cannabis intended for multiple-servings be resealable in a way that makes it continuously child-resistant and preserves the integrity of its contents, and
2. impervious packaging that protects the contents from contamination and exposure to any toxic or harmful substance, including any glue or other adhesive or substance incorporated in the packaging.

### ***Cannabis Content-Related Information***

**Potency and Chemotypes.** The bill requires that the labeling and packaging for any cannabis concentrate cannabis product whose total THC percentage exceeds 30% include a warning that the product has

high potency and may increase the risk of psychosis.

The bill also requires information about chemotypes (i.e., chemically distinct composition differences), which must be displayed as follows:

1. “High THC, Low CBD” where the THC to CBD ratio is greater than five to one and the total THC percentage is at least 15%;
2. “Moderate THC, Moderate CBD” where the ratio of THC to CBD is at least one to five, but not greater than five to one and the total THC percentage is between 5% and 15%;
3. “Low THC, High CBD” where the ratio of THC to CBD is less than one to five and the total THC percentage is less than 5%; or
4. the chemotype described above that most closely fits the cannabis or cannabis product, as determined by mathematical analysis of the ratio of THC to CBD.

**Unique Identifier.** The bill requires that the cannabis packaging be clearly labeled with a unique identifier before being sold and transferred to a consumer or a qualifying medical marijuana patient or caregiver. The identifier must be (1) printed directly on the package or affixed on a separate label, other than an extended content label and (2) generated by a cannabis analytic tracking system DCP maintains and uses to track cannabis under the policies, procedures, and regulations.

**Package Contents.** Under the bill, the package must include the following information on the cannabis contained in the packaging. The information must be in legible English, black lettering, Times New Roman font, flat regular typeface, on a contrasting background, and in uniform size of not less than one-tenth of one inch, based on a capital letter “K.” The following information must also be available on the cannabis establishment’s website:

1. the cannabis name, as registered with DCP under the policies, procedures, and regulations;
2. the expiration date, which must not account for any refrigeration

- after the cannabis is sold and transferred to the consumer, qualifying patient, or caregiver;
3. the net weight or volume, expressed in metric and imperial units;
  4. the standardized serving size, expressed in customary units, and the number of servings included, if applicable;
  5. directions for use and storage;
  6. each active ingredient, expressed in metric units and as a percentage of volume, comprising at least 1% of the cannabis, including cannabinoids; isomers; esters; ethers; salts and salts of isomers, esters and ethers;
  7. a list of all known allergens, as identified by the federal Food and Drug Administration (FDA), contained in the cannabis, or the denotation “no known FDA identified allergens” if it does not contain any FDA-identified allergen;
  8. the following warning statement within, and outlined by, a red box:

“This product is not FDA-approved, may be intoxicating, cause long-term physical and mental health problems, and have delayed side effects. It is illegal to operate a vehicle or machinery under the influence of cannabis. Keep away from children.”;

9. at least one of the following warning statements, rotated quarterly on an alternating basis:

“Warning: Frequent and prolonged use of cannabis can contribute to mental health problems over time, including anxiety, depression, stunted brain development and impaired memory.”

“Warning: Consumption while pregnant or breastfeeding may be harmful.”

“Warning: Cannabis has intoxicating effects and may be habit-

forming and addictive.”

“Warning: Consuming more than the recommended amount may result in adverse effects requiring medical attention.”;

10. all information necessary to comply with labeling requirements imposed under state or federal law, including the state Uniform Food, Drug and Cosmetic Act (CGS §§ 21a-91 to 21a-120), state Bakeries, Food Manufacturing Establishments and Food Warehouses law (CGS §§ 21a-151 to 21a-159), the federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.), and the federal Fair Packaging and Labeling Act (15 U.S.C. § 1451 et seq.) for similar products that do not contain cannabis; and
11. any additional warning labels for certain cannabis products as the commissioner may require and post on DCP’s website.

### ***Visual Requirements***

The bill requires that the policies, procedures, and regulations prohibit packaging that is (1) visually similar to any commercially similar product that does not contain cannabis, or (2) used for any good that is marketed to individuals reasonably expected to be under age 21.

The regulations, policies, and procedures must allow cannabis packaging to include a picture of the cannabis plant and contain a logo of one cannabis establishment. The logo may be comprised of up to three colors besides black and white. The packaging must be entirely and uniformly one color and must not incorporate any information, print, embossing, debossing, graphic, or hidden feature, other than any permitted or required label.

For edible cannabis products, the bill (1) requires that the packaging be entirely and uniformly white and (2) specifies that white and black are considered colors for packaging purposes.

Under the bill, for the purposes of RERACA, “edible cannabis product” means a cannabis product, including a liquid, which may be combined with other ingredients and is intended for human

consumption but does not include raw cannabis plant material. Under existing law, the commissioner's policies, procedures, and regulations must generally limit the standard serving of an edible cannabis product (other than a medical marijuana product) to five milligrams of THC.

### **§§ 15 & 16 — CANNABIS OMBUDSMAN**

*Requires the state healthcare advocate to designate an employee by October 1, 2023, to serve as the cannabis ombudsman to, among other things, represent the interests of qualifying medical marijuana patients and caregivers*

The bill requires the healthcare advocate to designate an employee by October 1, 2023, to serve as the cannabis ombudsman. The ombudsman must be qualified by training and experience to perform the duties the bill requires and have expertise and experience with the palliative use of marijuana.

The ombudsman must:

1. represent the interests of qualifying patients and caregivers and identify, investigate, and resolve complaints made by them or on their behalf;
2. monitor the palliative use of marijuana as allowed under the medical marijuana laws;
3. report actions, inactions, or decisions that may adversely affect qualifying patients' health, safety, welfare, or rights;
4. analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and other government policies and actions concerning qualifying patients' and caregivers' health, safety, welfare, and rights and facilitate public comment on them; and
5. recommend any changes to the laws, regulations, policies, and actions described above that the ombudsman deems appropriate to, among other things, improve the state's palliative marijuana market.



**§ 17 — TASK FORCE**

*Establishes a task force to study the potential health, safety, and financial impact of allowing individuals who cultivate cannabis in their residences to sell, at retail, the cannabis at events*

The bill establishes a 13-member task force to study the potential health, safety, and financial impact of allowing individuals who are authorized to cultivate cannabis in their residences to sell, at retail, the cannabis at events organized, at least in part, to facilitate the sales. The task force must (1) examine the impact that the sales would likely have on the state, including the impact on residents and existing medical and recreational cannabis markets, and (2) if the task force recommends that the state authorize these sales, recommend any legislation needed to authorize and regulate the sales.

Under the bill, the House speaker, Senate president pro tempore, and governor each must appoint two members and the House and Senate majority and minority leaders each must appoint one. Additionally, the DCP, public health, and mental health and addiction services commissioners or their designees serve as ex-officio members. The legislative appointments may be legislators. All initial task force appointments must be made within 30 days after the bill's passage. The appointing authority must fill any vacancy.

The bill requires the House speaker and Senate president pro tempore to select the chairpersons, who must schedule the first task force meeting within 60 days after the bill passes. Under the bill, the General Law Committee's administrative staff must serve as the task force's administrative staff.

By January 1, 2024, the task force must submit a report on its findings and recommendations to the General Law Committee. The task force terminates on the date it submits the report or January 1, 2024, whichever is later.

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 18 Nay 4 (03/07/2023)