



CANNABIS CONTROL COMMISSION

Public Commission Meeting Thursday, December 14, 2017

10:30 a.m.
Minihan Conference Room
Hurley Building, 6th Floor
19 Staniford Street
Boston, MA

DRAFT--FOR DISCUSSION PURPOSES ONLY

This presentation has not been reviewed or approved by the Cannabis Control Commission.



Cannabis Control Commission

12.12.17 Public Meeting

Agenda

- Call to Order
- Chairman's Comments & Updates
- Discussion of Policies and Draft Regulations
- New Business that the Chairman did not anticipate at time of posting
- Next Meeting date (if known)

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Cannabis Control Commission Order of Discussion (Modified)

Framework & Licensing

A) Marijuana Establishments

- Marijuana Cultivator (KD)
 - Craft Marijuana Cooperative (KD)
- Marijuana Product Manufacturer (KD)
- Independent Testing Lab (KD)
- Marijuana Retailer (KD)
- Marijuana Distributor (SH)
- Marijuana Delivery Operator (SH)
- Marijuana Social Consumption Operator (ST)
 - Primary Use
 - Mixed Use
 - Event License
- Micro Business (ST)

B) Licensing Process (BM)

- General
- Specific Issues

C) Research Facilities (KD)

D) Priority Econ Empowerment Review (ST)

E) Social Equity (ST)

F) Background Checks (BM)

G) Action on Applications (BM)

H) Commission Approval of Changes (KD)

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Cannabis Control Commission Order of Discussion (Modified)

Operations

- Cultivation (KD)
 - Pesticides
 - Plant Nutrients
 - Organic Growing
 - Energy
- Manufacturing (KD)
- Labs/Testing (KD)
- Retail
 - Consumer Access (BM)
 - Transportation/Delivery (SH)
 - Separation of Adult & Medical (KD)
 - Employees (BM)
- Social Consumption (ST)
- Security and Incident Reporting (BM)
- Edibles (JF)
- Packaging, Labeling, Advertising (BM & JF)
- **Inventory/Records/Cash Management (SH)**
- Insurance (KD)

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Cannabis Control Commission Order of Discussion (Modified)

Operations (Continued)

- Waste Disposal
- Inspections and Compliance
- Actions on Licenses
 - Fines
 - Progressive Discipline
- Appeals
- Non-Conflict with Other Laws
- Notice List

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Cannabis Control Commission Order of Discussion (Modified)

Deferred Topics

- Retail Delivery Only Licenses (no brick and mortar)
- Non-retail delivery licenses
- Social Consumption
 - “BYOC” for Mixed Use Licenses
 - Event Licenses
- Fees and Capital Requirements by License Category
- Incentives for Experienced Industry Participants to Provide License Application Assistance to Equity Applicants

Additional Topics

- Leadership Program Categories
- Martha’s Vineyard/Nantucket

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Draft Regulations Discussion

Issue: Smoking

Recommendations:

- *Allow municipalities to permit smoking
- *Allow establishments licensed by the Department of Revenue as smoking bars to permit smoking
- *By January 31, 2018, appoint a special working group to create recommendations for regulations on smoking and other forms of social consumption by July 1, 2018
 - *Ventilation guidelines
 - *Odor control including carbon filtration systems
 - *Employee exposure to secondhand marijuana smoke



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Inventory and Record Keeping

- **Recommendation:** Approve inventory regulations as currently drafted
- **Key points:**
- Establish inventory controls and procedures for the conduct of inventory reviews, and comprehensive inventories of marijuana and Marijuana products in the process of cultivation, and finished, stored marijuana
- Conduct a monthly inventory of marijuana in the process of cultivation and finished, stored marijuana
- Conduct a comprehensive annual inventory at least once every year after the date of the previous comprehensive inventory;
- Promptly transcribe inventories if taken by use of an oral recording device.
- The record of each inventory shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the names, signatures, and titles of the individuals who conducted the inventory.
- A Marijuana Establishment shall tag and track all marijuana seeds, plants, and products, using a seed-to-sale methodology in a form and manner to be approved by the Commission.
- A Marijuana Establishment that is cultivating, processing or selling marijuana and marijuana products for medical use as well as marijuana and marijuana products for adult use must create virtual separation of the products through tracking methodology approved by the Commission



Cannabis Control Commission

Inventory and Record Keeping

- **Recommendation:** Approve record keeping regulations as currently drafted
- **Key points:**
 - Written operating procedures
 - Inventory records
 - Seed-to-sale tracking records for all marijuana and marijuana products
 - Personnel Records
 - A staffing plan that will demonstrate accessible business hours and safe cultivation conditions
 - Personnel policies and procedures
 - All background check reports



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Cash Management

Issue: Cash transactions will be a significant percentage of retail sales

- Safety
- Tracking and fraud prevention (tax)
- Handling of non-tax cash

Options: See next page



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Cash Management

Options developed by DOR

- **Use the smaller cash handling machines for the deposit of tax and sales revenue and hire an armored car service to deposit all monies into a state chartered bank or credit union.**
 - DOR/CCC has no involvement in cash handling
 - Retailers would be responsible for leasing the machines
 - Retailers would be responsible for contracting with armored car service to pick up funds
 - DOR would provide deposit banking information to retailer to deposit tax payment due
 - Net revenue would be deposited into retailers bank of choice
- **Draft an agreement with the state chartered banks and/or credit unions allowing retailers to make cash deposits**
 - DOR/CCC has no involvement in cash handling
 - Would allow retailers to transact electronically without concerns of bank accounts being shut down
 - DOR would provide deposit banking information to retailer for deposit or transfer of funds
- **Use larger cash handling machines to deposit tax revenues at secure DOR locations across the Commonwealth**
 - Cash collection or depositing would not require DOR employees
 - Commonwealth would incur cost of machines and armored car service fees
 - Commonwealth would incur logistic costs associated with location, security, customer service support, etc.
 - Tax fee payments would be routed directly to DOR's depository bank
- **Commonwealth contracts with armored car services to pick-up cash directly from retailers**
 - Cash collection or depositing would not require DOR employees
 - Commonwealth would incur the cost of armored car service
 - Model is currently deployed in CA
 - Addresses public safety issue

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Cannabis Control Commission Order of Discussion (Modified)

Operations (Continued)

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Cannabis Control Commission

Draft Regulations Discussion

Issue: Inspections & Compliance

Options:

- Emulate inspections & compliance structure of the Medical Use of Marijuana Program, including deficiency statements and plans of correction
- Adopt alternate program based on models from other states

Recommendation:

- Emulate inspections & compliance structure of the Medical Use of Marijuana Program, including deficiency statements and plans of correction



Cannabis Control Commission Order of Discussion (Modified)

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Cannabis Control Commission

Draft Regulations Discussion

Issue: Actions on License

Options:

- Emulate enforcement structure of the Medical Use of Marijuana Program, including cease and desist order, quarantine and summary suspension
- Adopt alternate program based on models from other states

Recommendation:

- Emulate enforcement structure of the Medical Use of Marijuana Program, including cease and desist order, quarantine and summary suspension



Cannabis Control Commission

Draft Regulations Discussion

Issue: Fines

Options:

- Emulate fines from other regulated MA industries
 - Fine only licensed entities, not individuals
 - Provide written notice
 - Fines up to \$25,000
 - Identify factors in determining amount of fines
 - Provide appeals process, but failure to pay without appeal may result in further action on license
- Adopt alternate program based on models from other states

Recommendation:

- Emulate fines from other regulated MA industries



Cannabis Control Commission

Draft Regulations Discussion

Issue: Progressive Discipline

Options:

- Emulate Progressive Discipline from other regulated MA industries, including Medical Use of Marijuana Program
- Adopt alternate program based on models from other states

Recommendation:

- Emulate progressive disciplinary structure of the Medical Use of Marijuana Program and other regulated industries



Cannabis Control Commission Order of Discussion (Modified)

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Draft Regulations Discussion

Hearings and Appeals

Recommendation:

- Adopt a 30A appeal to Hearing Officer on contract with Commission;
- Commission sends Notice of Violation(s) to licensee or registrant stating grounds for action, right to request a hearing and the time period in which to make a request, satisfying due process requirements;
- Hearings conducted in accordance with 30A and 801 CMR 1.02, Informal/Fair Hearings Rules;
- Burden is on Commission to prove by a preponderance of the evidence that the violation complained of existed;
- Hearing Officer issues written determination;
- If not in favor of licensee/registrant, right to appeal to Superior Court per 30A (standard right of appeal in administrative law).



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Draft Regulations Discussion

Hearings and Appeals

Issue: What is the appropriate appeal process for licensees and registrants?

Options:

- Adopt a 30A appeal to Division of Administrative Law Appeals (DALA)
- Adopt a 30A appeal to Hearing Officer appointed by Commission (contractor)



Cannabis Control Commission Order of Discussion (Modified)

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Draft Regulations Discussion

Issue: Non-Conflict with Other Laws

Options:

- Emulate provisions from medical use of marijuana regulations
- Supersede all local regulation

Recommendation:

- Emulate provisions from medical use of marijuana regulations



Cannabis Control Commission Order of Discussion (Modified)

Deferred Topics

- Retail Delivery Only Licenses (no brick and mortar)
- Non-retail delivery licenses
- Social Consumption
 - “BYOC” for Mixed Use Licenses
 - Event Licenses
- Fees and Capital Requirements by License Category
- Incentives for Experienced Industry Participants to Provide License Application Assistance to Equity Applicants

Additional Topics

- Leadership Program Categories
- Martha’s Vineyard/Nantucket

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Discussion of Fees

Philosophy:

- Application Fees and Annual License Fees should cover the Commission's cost of processing and enforcement, respectively
 - Not a source of incremental revenue
- Application Fees and Annual License Fees should not be a barrier to entry to smaller market participants
- We should retain the flexibility to adjust or eliminate fees to encourage certain types of market participants



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Discussion of Fees

List of License Categories:

- Cultivation
 - Tier I
 - Tier II
 - Tier III
 - Tier IV
- Craft Marijuana Cooperative
- Micro License
- Manufacturing
- Independent Lab
- Retail (Brick and Mortar)
- **Retail (Delivery Only; no Brick and Mortar)**
- **Delivery Only (No Retail License)**
- Transporter
- Research License
- Social Consumption License – Primary Use
- Social Consumption License – Mixed Use
- **Social Consumption License – Event License**
- RMD Conversion



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License Costs by State

Category	Colorado	Oregon	Washington	California
Cultivation	<ul style="list-style-type: none">Up to 1800 plants: \$1,500 to state/\$2,500 to local1801 – 3600 plants: add'l \$10003,601 – 6,000 plants: Add'l \$2,0006,001 – 10,200 plants: Add'l \$4,00010,201 – 13,800 plants: Add'l \$6,000	<ul style="list-style-type: none">Micro Tier I: \$250/\$1000Micro Tier II: \$250/\$2000Tier I: \$250/\$3750Tier II: \$250/\$5750	<ul style="list-style-type: none">\$250/\$1480 (all tiers)<2,000 sq ft2,000 – 10,000 sq ft10,000 – 30,000 sq ft	<p>Indoor</p> <ul style="list-style-type: none"><500sqft: \$205/\$1830501 – 5,000 sq ft: \$2,170/\$19,4505,001-10,000 sq ft:\$3,935/\$35,41010,000 – 22,000 sq ft: \$8,655/\$77,905 <p>Outdoor</p> <ul style="list-style-type: none"><25 plants: \$135/\$1340501 – 5,000 ft: \$270/\$2,4105,001 – 10,000 sq ft: \$535/\$4,82010,001 sq ft – 1 acre: \$1,555/\$15,545
Manufacturers	<ul style="list-style-type: none">\$1,500 to state\$2,500 to local	<ul style="list-style-type: none">\$250/4750	<ul style="list-style-type: none">\$250/\$1480	<ul style="list-style-type: none">Proc: \$1,040/\$9,370Mfg: \$1,000/\$2,000 - \$75,000
Labs	<ul style="list-style-type: none">\$1,500 to state\$500 to local	<ul style="list-style-type: none">\$250/\$4750		<ul style="list-style-type: none">\$1,000/\$20,000 - \$90,000
Retail	<ul style="list-style-type: none">\$2,000 to state\$2,500 to local	<ul style="list-style-type: none">\$250/\$4750	<ul style="list-style-type: none">\$250/\$1480	<ul style="list-style-type: none">\$1,000/\$4,000 - \$72,000
Distribution/ Wholesalers	<ul style="list-style-type: none">\$4,400 to state\$500 to local2 Year License	<ul style="list-style-type: none">Micro: \$250/\$1000Regular: \$250/\$4750	<ul style="list-style-type: none">\$250	<ul style="list-style-type: none">Dist: \$1,000/\$1,200 - \$125,000Self Dist: \$1,000/\$2,000Transport Only: \$1,000/\$800 - \$2,500

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Discussion of Fees

Application Processing Fees	Number of Applications (?)	Cost Per Application
\$175,000/Year (from FY'18 Budget)	<ul style="list-style-type: none">• 400• 600	<ul style="list-style-type: none">• \$437• \$292
Enforcement Costs	Number Of Licensees (?)	Cost Per Licensee
\$1,300,000/Year (from FY '19 Budget)	<ul style="list-style-type: none">• 200• 250• 300	<ul style="list-style-type: none">• \$6,500• \$5,200• \$4,333



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Discussion of Fees

- Recommendation
 - Set Non-Refundable Application Fees at \$300 (not including cost of background check) for all categories of licenses **EXCEPT**
 - Waived for Equity Applicants
 - Tiered for Cultivation Licenses
 - Set Average Annual License Fee at \$5,000
 - Reduced by 50% for Micro Business Licenses
 - Vary Only if there is a reasonable expectation that enforcement costs will differ from average
 - Tiered for Cultivation Licenses
 - See table on next slide



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Discussion of Fees

List of License Categories

	Application Fee (*)	Annual License Fee
• Cultivation		
• Tier I	\$100	\$1000
• Tier II	\$250	\$2,500
• Tier III	\$400	\$4,000
• Tier IV	\$600	\$5,000 (plus \$0.25/sq.ft. Over 10,000 sq.ft)
• Craft Marijuana Cooperative	\$300	As per above
• Micro License	\$300	\$1,250
• Manufacturing	\$300	\$5,000
• Independent Lab	\$300	\$5,000
• Retail (Brick and Mortar)	\$300	\$5,000
• Retail (Delivery Only; no Brick and Mortar)		
• Delivery Only (No Retail License)	\$300	\$2,500
• Transporter	\$300	\$5,000
• Research License	\$300	TBD
• Social Consumption License – Primary Use	\$300	\$5,000
• Social Consumption License – Mixed Use	\$300	\$2,500
• Social Consumption License – Event License	\$300	\$1,000/event
• RMD Conversion	\$450	Sum of cultivation, retail and mfg. license

(*) Application fees waived for equity applicants



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Capital Requirements for Licensees

- **Issue:** Should we require threshold amount of available capital to approve a license application
- **Options:**
 - Set capital requirements
 - Vary by type of license
 - Do not set capital requirements
 - Require disclosure of source of funding
- **Considerations:**
 - Purpose of capital
 - Up-front investment required
 - Cover operating costs as revenue builds
 - “Rainy day” fund
 - Many ways to measure capital adequacy
 - Most common is up-front investment required plus 3 – 6 months of operating costs
 - No evidence of capital thresholds for adult use in other states
 - We have a responsibility to create a stable industry
 - But our role is not to “babysit” licensees or guarantee success



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Capital Requirements for Licensees

- Recommendation:
 - Do not set capital requirements for licensees
 - Require disclosure of source of capital
 - Ensure that technical assistance programs give guidance on capital adequacy



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Deferred Topics

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Additional Topics

- Leadership Program Categories
- Martha’s Vineyard/Nantucket

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Cannabis Control Commission

Draft Regulations Discussion

Issue: Leadership Program

Options:

- Provide incentives to licensees to achieve objectives of Cannabis Control Commission by awarding leader status
- Other incentives

Recommendation:

- Provider leadership program
- Continue to evaluate incentives to achieve objectives of Cannabis Control Commission



Cannabis Control Commission Draft Regulations Discussion

Issue: Leadership Program Categories

Options:

- Social Justice Leader
- Local Employment Leader
- Energy and Environmental Leader
- Compliance Leader
- Additional or different categories

Recommendation:

- Social Justice Leader
- Local Employment Leader
- Energy and Environmental Leader
- Compliance Leader



Cannabis Control Commission

Draft Regulations Discussion

Issue: Social Justice Leader Criteria

Options:

- 15% or more of the licensee's employees are from areas of disproportionate impact, as determined by the Commission;
- At least one licensee executive is from an area of disproportionate impact, as determined by the Commission; and
- The licensee has conducted 50 hours of educational seminars targeted to residents of areas of disproportionate impact in one or more of the following: marijuana cultivation, marijuana product manufacturing, marijuana retailing, or marijuana business training.
- Additional or different categories

Recommendation:

- Adopt the specified criteria



Cannabis Control Commission

Draft Regulations Discussion

Issue: Local Employment Leader Criteria

Options:

- 51% or more of the licensee's employees have been a Massachusetts resident for six months or more, as determined by the Commission;
- At least one licensee executive has been a Massachusetts residence for six months or more, as determined by the Commission.
- Additional or different categories

Recommendation:

- Adopt the specified criteria



Cannabis Control Commission

Draft Regulations Discussion

Issue: Energy & Environmental Leader Criteria

Options:

- The licensee has met or exceeded its energy and environmental impact goals for its registration period; and
- The licensee has consistently complied with best management practices for energy use, waste disposal and environmental impact.
- Additional or different categories

Recommendation:

- Adopt the specified criteria



Cannabis Control Commission

Draft Regulations Discussion

Issue: Compliance Leader Criteria

Options:

- All licensee employees have completed all required trainings for their positions within sixty days of hire;
- The licensee has not been issued a written deficiency statement;
- The licensee has not been the subject of a cease and desist order or a quarantine order;
- The licensee has not had its license suspended; and
- The licensee has met all timelines required by the Commission.
- Additional or different criteria

Recommendation:

- Adopt the specified criteria



Cannabis Control Commission Order of Discussion (Modified)

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Draft Regulations Discussion

Issue: Martha's Vineyard/Nantucket

Options:

- To the extent permitted by law, the islands may fully participate in the Adult Use Program.
- To the extent prevented by law, the islands may do:
 - Point of sale testing with warning label
 - Jointly fund a lab that does not meet the criteria of an independent testing lab, again with warning label
 - Other option approved by the Commission.
- Additional or different criteria

Recommendation:

- Adopt the first two bullet point above.



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Next Meeting Date

10:30 AM

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Draft Regulations Discussion

Issue: Operational Requirements for Marijuana Product Manufacturing

Options:

- Require compliance with MA sanitary requirements for wholesale food production
- Create new marijuana-specific preparation requirements

Recommendation:

- Require compliance with MA sanitary requirements for wholesale food production