

Dear Acting Chair Stebbins; Commissioners Camargo, Concepcion, & Roy; and CCC Staff,

Thank you for this opportunity to offer informal public comments regarding the Cannabis Control Commission's (CCC or Commission) review of regulations governing on-site Social Consumption Establishments.

Stakeholder input is vital for developing regulations that safeguard public health and safety while fostering economic opportunities for communities disproportionately affected by the war on drugs.

On behalf of the leadership of Equitable Opportunities Now and the social equity business leaders and advocates in the Massachusetts Cannabis Equity Council, we applaud your consistent use of informal public comment periods for important topics like this and the model Host Community Agreement, and your regular engagement with stakeholders to better understand the priorities and concerns of the businesses that the Legislature charged the CCC with promoting and encouraging in this industry¹.

Preserve flexibility and support for equity businesses

In addition to your deliberative and inclusive approach to developing these policies, we further applaud the Commission for taking bold action through these regulations to advance its mandate to "to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition."

We are greatly encouraged by the Commission's approach of enabling multiple types of licenses to encourage a robust, diverse, and innovative new social consumption subsector that includes current licensees that might offer tasting rooms or other on-site consumption experiences, partnerships with hospitality establishments, and events, which all can offer a variety of consumption types that could include cafes offering infused food and drink, indoor smoking lounges, outdoor vaping, or even yoga or massage therapy with infused topicals.

We are extremely appreciative of the CCC's efforts to offer as much flexibility as possible and applaud you for making this a central component of the Commission's social consumption regulatory framework.

To promote equity and innovation, we recommend retaining or strengthening the following provisions:

- Update to 935 CMR 500.050(6)(c) establishing a **60-month exclusivity period** (with additional recommended enhancements)
- Updates to the "Close Associate" and "Person or Entity Having Indirect Control" definitions and new "Non-Cannabis Business" definition in 935 CMR 500.002 clarifying that a Non-Cannabis Business collaborating with a Hospitality On-site Consumption Licensee is not considered a Close Associate by virtue of that relationship alone.²
- Updated "Social Consumption Establishment" definition establishing the Supplemental On-site Consumption, Hospitality On-site Consumption, and Marijuana Event Organizer License categories.
- Updated "Warehouse" definition to reflect that the warehouse is the Principal Place of Business for Delivery Operators and Marijuana Event Organizers
- New definitions in 935 CMR 500.002, including:
 - "Consumption Area," which defines where consumers may purchase or consume Marijuana Products³ and establishing non-smoking, indoor smoking, and outdoor smoking categories.

¹ Pursuant to Mass. Gen. Laws ch. 94G, § 4(a½)(iv), the CCC shall "establish 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 pursuant to Mass. Gen. Laws ch. 94G, § 22 4 "The commission shall administer a social equity program to encourage and enable full participation in the marijuana industry of people from communities that have been disproportionately harmed by marijuana prohibition and enforcement..."

² Minor typographical update to the new language:

A Hospitality On-site Consumption Licensee may partner with a Non-Cannabis Business to operate within the Non-Cannabis Business' physical space and the Non-Cannabis Business shall not be considered a Close Associate by virtue of this relationship alone.

³ Given that the definition of Marijuana Products includes marijuana, the Commission might consider the following minor update to the new language:

- “Hospitality On-site Consumption”
- “Indoor Smoking Consumption Area”
- “Marijuana Event Organizer”
- “Non-Smoking Consumption Area”
- “Outdoor Smoking Consumption Area”
- “Principal Place of Business”⁴
- “Supplemental On-site Consumption,” establishing that a licensed Retailer, Cultivator, Manufacturer, Microbusiness, Craft Marijuana Cooperative, or Delivery Operator may obtain a Social Consumption Establishment license to sell Marijuana Products to consumers for consumption⁵
- “Temporary Consumption Event”
- “Temporary On-site Consumption Permit”
- Establish and enforce clear and consistent ownership limits on the number of licenses an individual or entity may be granted in 935 CMR 500.050(1)(b)(9)
- Clarify that a Marijuana Cultivator (935 CMR 500.050(2)(f)), Craft Marijuana Cooperative (935 CMR 500.050(3)(m)), Marijuana Product Manufacturer (935 CMR 500.050(4)), Microbusiness (935 CMR 500.050(5)(f)), Marijuana Retailer (935 CMR 500.050(8)(a)(1)), and Delivery Operator (935 CMR 500.050(11)(j)) may operate a Supplemental On-site Consumption license
- Add Social Consumption Core Curriculum to Responsible Vendor Training Program in 935 CMR 500.105(8)
- Enable Qualified Patients to bring their Medical-use Marijuana or have it delivered to the Social Consumption Establishment in 935 CMR 500.141(2)(l)
- Establish SOPs to protect worker health in 935 CMR 500.141(2)(o)
- Align social consumption sales limits with existing sale limits established in existing regulations in 935 CMR 500.141(3)(a)
- Allow consumers to remove unconsumed or partially consumed Marijuana Products from Social Consumption Establishment in sealed bag in 935 CMR 500.141(3)(a)
- Enable sale of multiple serving beverages by social consumption licensees in 935 CMR 500.141(3)(c)
- Allow a Social Consumption Establishment to share a space with an entity serving alcohol, provided there is a physical barrier to the Consumption Areas or that alcohol sales aren’t offered at the same time in 935 CMR 500.141(4)(b)

Thank you again for prioritizing flexibility and opportunity, and continuing to center your mandate to encourage and support full participation in the cannabis industry as you develop this new license type and regulatory framework.

Summary of opportunities to strengthen regulations

While there are many strong components of this initial draft regulatory revision proposal, social equity business operators and supporters have identified several opportunities for further strengthening these regulations to reduce unnecessary barriers and unlock the greatest potential for entrepreneurship in this space.

To further strengthen these regulations, we strongly encourage you to adopt the following changes to your proposed regulatory revisions:

- **Ensure more than a few companies benefit from the full exclusivity period by requiring three of**

Consumption Area means a space approved by the Commission in a Social Consumption Establishment’s Premises where Consumers may purchase or consume ~~Marijuana or~~ Marijuana Products. Consumption Areas may be considered Non-Smoking, Indoor Smoking or Outdoor Smoking.

⁴ Given that the primary purpose of the “Principal Place of Business” (PPB) is for establishing where a Marijuana Event Planner must negotiate a Host Community Agreement, the Commission may want to consider whether it wishes to define PPB as applying to all Marijuana Establishments or if its definition should be restricted to just the relevant license type(s).

⁵ Given that the definition of Marijuana Products includes marijuana, the Commission might consider the following minor update to the new language:

Supplemental On-site Consumption means a type of license within the Social Consumption Establishment license classes where a Marijuana Establishment (Retailer, Cultivator, Product Manufacturer, Microbusiness, Craft Marijuana Cooperative, or Delivery Operator) may sell ~~Marijuana or~~ Marijuana Products to Consumers in a designated Consumption Area within or attached to the Marijuana Establishment’s Premises.

each category of social consumption license to be operational before starting the period in 935 CMR 500.500(6)(c)

- **Require that the Commission to determine that the goal of the exclusivity period 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 of the law, by farmers, and by businesses of all sizes, **has been met to end the period** rather than requiring a determination that it has not been met to extend it in 935 CMR 500.500(6)(c)
- **Remove the arbitrary and unnecessary limit on the number of events** that a Marijuana Event Organizer can host events.
- **Ensure all licensed Marijuana Establishments can participate in Temporary Consumption Events**
- **Enable licensed cannabis operators to use their own hospitality establishments and negotiate freely with potential hosts**
- **Provide greater flexibility for offering infused food**
- **Establish more reasonable review periods for Temporary On-site Consumption Permits**
- **Reduce fees** for Supplemental On-site Consumption and Marijuana Event Organizer licenses
- Clarify that Social Consumption Establishments may provide non-infused beverages besides water
- Define “ Marijuana Product Beverages” and update 935 CMR 500.141 to provide better clarity and avoid the need to create an exception within the definition of “Beverage.”
- Schedule a **social consumption regulatory review period** to start within 12 months of the start of the exclusivity period
- Establish a **pilot program to assess how offering patrons access to cannabis or alcohol at the same establishment** could reduce alcohol abuse and cannabis stigma

Strengthening the exclusivity period

Based on stakeholder surveys, focus groups, and feedback, EON supports an exclusivity period of five years. Such a period ensures that social equity businesses have an opportunity to establish strong roots and begin growing and repaying creditors before facing the economic risks created by competition from large, vertically integrated, profitable, and well-financed multistate operators and other general applicants while balancing the potential desire of some operators who may wish to sell their businesses after building them.

Based on our experience with the delivery exclusivity period, it would not be unexpected to discover that this new subsector of the cannabis industry may encounter unexpected challenges related to this new regulatory framework, state law, municipal policies, access to insurance, availability of real estate, access to capital and the Cannabis Social Equity Trust Fund, judicial rulings, or other developments that we cannot yet foresee so **it is critical that the CCC retain a social consumption exclusivity period of no less than 60 months.**

That recommendation, however, is contingent upon the Commission requiring the establishment of an emerging social consumption industry before starting the exclusivity period and establishing that it will continue to extend the exclusivity period until its goal of encouraging full participation in the industry by those harmed by the war on drugs, farmers, and by businesses of all sizes has been met. ***In the event these updates are not incorporated into the final regulations, we would not oppose calls from other advocates to extend the exclusivity period to seven years.***

Start exclusivity period once an emerging industry is taking root

The Commission is currently proposing to start the exclusivity period after the first Hospitality On-site Consumption Licensee receives a notice to commence operations. We recognize that the Hospitality On-site Consumption License is likely to be the last of the three categories of social consumption licenses to be issued. However, that assumption is not guaranteed and should not form the basis of when to start the exclusivity period, particularly given that the Hospitality On-site Consumption License may attract applicants with access to the greatest resources, who could potentially navigate the application process more efficiently than small cannabis businesses and event organizers. **At a minimum, the CCC should require all three categories of social consumption licenses to be operational before starting the exclusivity period.**

Limiting the full benefit of an exclusivity period to the first business to become operational by requiring the exclusivity period to start after the issuance of a single license runs counter to the CCC's goal of the exclusivity period 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 of the law, by farmers, and by businesses of all sizes.

To ensure the exclusivity period is beneficial to more than just one or a few businesses, the social consumption exclusivity period should start after at least three licensees have received notices to commence operations in each category of social consumption license.

We encourage you to adopt the following regulatory revisions to 935 CMR 500.50(6):

~~(b)~~(c) **Notwithstanding 935 CMR 500.050(6)(b)3.e.v.**, Social Consumption Establishment licenses shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of **Social Equity Businesses**; Economic Empowerment Priority Applicants; ~~or~~ Social Equity Program Participants; **or** Microbusinesses and Craft Marijuana Cooperatives, for a period of ~~36-60~~ months from the date the ~~first-third Social Consumption Establishment Supplemental On-Site Consumption Licensee, third Hospitality On-site Consumption Licensee, and third Marijuana Event Organizer Licensee~~ storing cannabis at their primary place of business receives a notice to commence operations...

Ensure the CCC continues exclusivity period until its goal has been met

The currently proposed requirement that the CCC determine the exclusivity period's goal has **not** been met creates an unnecessary barrier to extending the period in furtherance of that goal and unnecessary uncertainty around whether equity businesses can count on the Commission to extend the period until meaningful participation has been achieved.

It is unfair and unreasonable to require equity businesses, Commissioners, and staff to prove a negative outcome in order to extend this period rather than requiring the CCC to determine the goal has been met in order to end the exclusivity period.

We strongly encourage you to adopt the following proposed changes to 935 CMR 500.50(6) to require the exclusivity period's goal to be achieved in order to end it:

~~(b)~~(c) ... provided, however, that the Commission may, by vote, decide to ~~extend~~ **conclude** that period following a determination that the goal of the exclusivity period 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 of the law, by farmers, and by businesses of all sizes, has ~~not~~ been met...

3. The licenses may be made available to any qualifying applicants after ~~the 36-60-month period, unless~~ the Commission affirmatively votes to ~~extend~~ **conclude** the period of exclusivity. ~~by a period of 12-24 months after the first 36-60-month period. Any subsequent Conclusion extension~~ of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1., have ~~not~~ been met.

Remove arbitrary, unnecessary restrictions on Marijuana Event Organizers

In April, 2023, EON wrote to the CCC urging you to “draft regulations creating a time-limited special event license type and to engage stakeholders and experts further in crafting those regulations in such a way that provides flexibility to businesses; protections to the public, workers, and consumers; and an enjoyable experience for consumers.”

We are extremely grateful that the Commission has established the “Marijuana Event Organizer” license type to enable individuals and entities to “coordinate Temporary Consumption Events.” However, we are deeply concerned by the unnecessary and seemingly arbitrary limits on the number of events that organizers can hold and the number of days those events can span.

The restriction that events “not exceed five consecutive days or 24 events annually” per license as established by the definitions of Marijuana Event Organizer and Temporary Consumption Event in 935 CMR 500.002 appears intended to ensure that event organizers with the maximum number of licenses could hold approximately one event every day (e.g. 5 days/event * 24 events/license * 3 licenses = 360 days).

The Temporary On-site Consumption Permit application process provides sufficient opportunity to ensure that each event a Marijuana Event Organizer holds adequately promotes public health and safety. Creating an artificial restriction on the number of events and days a Marijuana Event Organizer can operate runs directly counter to the Commission’s goal of encouraging social equity businesses to succeed in this industry, and it is unclear how, if at all, such restrictions advance public health or public safety.

Event planning includes an inherently diverse range of potential activities for licensing, such as:

- Art classes, massage therapy sessions, yoga or physical activity classes, reading groups, or other gatherings that meet daily, weekly, or monthly (which, per the current proposed definition could span as many days as desired as long as there aren’t five consecutive days of meetings)
- Tasting meals that could involve multiple groups gathering at different times on the same night (which would currently would be ambiguously counted as several distinct events in one evening or might be counted as one event)
- Booking groups for tourist experiences that offer lodging, activities, and social consumption
- Festivals, conventions, tradeshow, tastings, and concerts that could span one day, several days, occur over a series of (consecutive or non-consecutive) days, or recur periodically (weekly, monthly, quarterly, annually)

The nature of event planning lends itself to periods of intense activity and surges in revenue, as well as long periods for planning and promoting events with significant costs and little to no revenue. As operators with this license type build their businesses and grow, they should be encouraged to offer as many events as they can safely and responsibly plan and execute with adequate prior CCC and municipal approval and oversight.

Operators should not be penalized or forced to apply for additional Marijuana Event Organizer licenses as they grow; the CCC should remove its unnecessary limit on the number of events a Marijuana Event Organizer licensee can organize per year.

We urge you to update the following definitions in 935 CMR 500.002:

Marijuana Event Organizer means a type of license within the Social Consumption Establishment license classes where an individual or entity may coordinate Temporary Consumption Events, not to exceed five consecutive days ~~or 24 events annually~~, after obtaining a Temporary On-site Consumption Permit for each Temporary Consumption Event by the Commission. Marijuana Event Organizers may select in its application the option to Warehouse Marijuana and Marijuana Products at its Principal Place of Business. Marijuana Event Organizers are responsible for all security, age verification, and all other activities at a Temporary Consumption Event.

Temporary Consumption Event means an event or series of events, not to exceed five consecutive days ~~or 24 events annually~~, that a Marijuana Event Organizer facilitates after obtaining a Temporary On-site Consumption Permit from the Commission.

Ensure all licensed Marijuana Establishments can participate in Temporary Consumption Events

We are grateful that the Commission has sought to ensure that all types of Marijuana Establishments are able to take advantage of the new Supplemental On-site Consumption license and that the Commission has sought to enable a diverse and innovative ecosystem of social consumption models.

Given the CCC's commitment to empowering existing licensees to participate in this new subsector of the industry, **we are very concerned and disappointed that the Commission has proposed limiting participation in Temporary Consumption Events to "Only Marijuana Establishments licensed to conduct retail sale."**

We urge you to ensure that all types of Marijuana Establishments have the opportunity to participate in Temporary Consumption events just as the Commission has empowered them to host their own Supplemental On-site Consumption.

Please adopt the following revised language to 935 CMR 500.050(6)(3)(b)(e)(ii):

~~Only~~ Marijuana Establishments ~~licensed to conduct retail sale~~ may participate in the Temporary Consumption Event.

Enable licensed cannabis operators to use their own hospitality establishments and negotiate freely with potential hosts

The Cannabis Control Commission is charged with the very important role of ensuring that all individuals and entities applying for licenses or licensed by the Commission comply with cannabis license ownership limits established by law and regulations,

We are pleased to see that the CCC has established reasonable, consistent, and strict limits ensuring that no individual or entity may control more than three of each category of social consumption licenses (935 CMR 500.050(9)(a)). However, **we are very concerned about attempts by the CCC to regulate whether individuals or entities own or control Non-Cannabis Businesses** (935 CMR 500.050(9)(b)), **which are not regulated by the Commission.** We are similarly concerned that the Commission is overreaching in its authority by preventing Hospitality On-site Consumption Licensees from offering their host a percent or portion of sales.

These restrictions adversely affect the Commission's goal of advancing equitable participation by potentially preventing social equity business owners who own Non-Cannabis Businesses from using their own businesses, and unnecessarily interferes in social consumption applicants' ability to negotiate effectively with potential hosts. **Given how detrimental these restrictions could be on social equity businesses and that they do not appear to advance public health or safety, we urge you to eliminate prohibitions against social consumption licensees owning a Non-Cannabis Business or providing them with a percent of revenue in exchange for hosting Hospitality On-site Consumption.**

Provide greater flexibility for offering infused food

Consumers should decide what level of potency is best for them based on their experience, body size, metabolism, and desired effects and we fully support strong regulations to ensure that consumers are educated about their options and receive the dose they were expecting.

However, we are very concerned that the Commission's proposed mandate that Social Consumption Establishments "shall sell food separately and apart from Marijuana and Marijuana Products" (935 CMR 500.141(4)(h)) creates an overly onerous, burdensome, and unnecessary restriction that limits the flexibility and creativity of chefs and bakers who may want to offer an infused dining experience. Further, by only

addressing food, the rule is silent on whether a Social Consumption Establishment can sell marijuana-infused non-alcoholic cocktails made to order.

While it is encouraging that social consumption licensees can offer pre-packaged, shelf-stable food and drink, and sell Marijuana and Marijuana Products that could be consumed with, on, or in the refreshments, this creates unnecessary complications for patrons and chefs who would prefer the infusion take place in the course of preparing the meal. A restriction requiring food to be sold separately from Marijuana and Marijuana Products would make bakeries and cafes far less appealing and likely to succeed given the impracticality of requiring consumers to add an infusion to their cookie or cupcake.

To encourage the success of non-smoking social consumption establishments, the CCC must enable these businesses to unlock their full potential by permitting the preparation of made to order infused foods and drinks. **We strongly encourage you to update your regulatory language to provide greater flexibility for Social Consumption Establishments offering made to order infused foods and drinks:**

935 CMR 500.141(3)

(e) Sale of Shelf-stable Products. A Social Consumption Establishment ~~may shall~~ sell food **and drink items that are** pre-packaged and ~~Shelf-stable, and drink items~~ other than Edibles, ~~if it acquires all necessary~~ and seek all licenses and permits to do so, **provided, however, that a Social Consumption Establishment may sell made to order marijuana-infused food and drink that has been prepared in accordance with a standard operating procedure and recipe that has been reviewed and approved by the Commission with all necessary licenses and permits required to do so...**

935 CMR 500.141(4)

(h) A Social Consumption Establishment may sell food and beverages separately and apart from Marijuana and Marijuana Product sale, and may sell made to order marijuana-infused food and drink that has been prepared in accordance with a standard operating procedure and recipe that has been reviewed and approved by the Commission with all necessary licenses licenses and permits required to do so.

Establish more reasonable review periods for Temporary On-site Consumption Permits

The CCC's requirement that a Marijuana Event Organizer apply for approval of a Temporary On-site Consumption Permit 120 days before the event is overly onerous and a huge impediment for small businesses organizing small events.

While the Commission may need a substantial amount of time to review plans for large, complex, multi-day events, the CCC should not expect or treat every event permit application the same or require overly lengthy lead times for events that don't warrant it.

We encourage the Commission to set reasonable expectations around the length of time it will take to review Temporary On-site Consumption Permits and offer greater flexibility by using less prescriptive language:

935 CMR 500.050(6)(b)(3)(d)

- a. ~~A Marijuana Event Organizer shall organize no more than 24 Temporary Consumption Events per year.~~ Applications for the approval of the Temporary On-site Consumption Permit shall include the location or address of the Temporary Consumption Event and shall be submitted no later than 120 days prior to the date of ~~the~~ **a multiple-day Temporary Consumption Event and no later than 30 days prior to a single-day Temporary Consumption Event, provided, however, that the Commission may at its discretion consider applications for approval of a Temporary Consumption Event Permit submitted after the deadline.** A Marijuana Event

Organizer shall obtain a Temporary On-site Consumption Permit prior to the event start date. A Marijuana Event Organizer may be granted approval of Temporary On-site Consumption Permit for a single day and up to five consecutive days. No Temporary On-site Consumption Permit shall be approved for longer than 5 consecutive days.

Reduce fees for Supplemental On-site Consumption and Marijuana Event Organizer licenses

We appreciate that the Commission has taken a thoughtful approach to establishing application and annual renewal fees that reflect the unique nature of each category of social consumption license while attempting to keep them inline with other licensing fees.

We particularly applaud the Commission for seeking to keep initial startup costs low for all categories of social consumption application fees relative to the proposed annual renewal fees.

While the fee structure proposed for Hospitality On-site Consumption in 935 CMR 500.005(1)(d) appears reasonable, we are concerned that the application and renewal fees for Supplemental On-site Consumption and Marijuana Event Organizer may dissuade participation in these new license types by being unnecessarily high.

Given that businesses seeking a Supplemental On-site Consumption already pay significant fees for their other existing licenses, the amount of staff and workers necessary to create attractive social consumption spaces and events, and the relatively minor increase in revenue this license will provide to retailers, delivery operators, cultivators, and manufacturers, **we recommend setting the Supplemental On-site Consumption Application Fee at \$750 and the Annual License Fee at \$2,500.**

Additionally, while we hope that Marijuana Event Organizers will grow and expand to offer a variety of events throughout the year, we anticipate that the vast majority of applicants and licensees will be small businesses seeking to experiment, innovate, and build up their offerings and audiences over time. Given the small size of many of the businesses likely to apply and the uncertainty around the size and volume of events they may host, **we recommend setting the Marijuana Event Organizer Application Fee at \$750 and the Annual License fee at \$2,500.** The Commission may also consider establishing tiered Marijuana Event Organizer fees based on whether the applicant/licensee warehouses Marijuana Products and/or based on the number, size, or complexity of events.

We further urge the CCC to ensure it makes data-informed decisions and evaluates the appropriateness of these fees by codifying within its regulations or by a separate vote that it will evaluate applications and renewals, hold a comment period, and review these fees before the conclusion of the initial exclusivity period.

Clarify that Social Consumption Establishments may provide non-infused beverages besides water

We applaud the Commission for seeking to enable Social Consumption Establishments to offer non-infused food and drink, so it was surprising that 935 CMR 500.050(6)(a)(1) seemingly restricts Social Consumption Establishments to offering access to “non-infused food and water.”

While we believe that every licensee should provide access to water, we are concerned that the current language could discourage or inadvertently prevent Social Consumption Establishments from offering non-infused beverages in addition to water.

To ensure that Social Consumption Establishments can provide non-infused beverages besides water, we urge you to adopt the following revisions to 935 CMR 500.050(6)(a)(1):

A Social Consumption Establishment shall provide Consumers access to non-infused food and **beverages that include but are not limited to** water. Nothing in 935 CMR 500.050, shall exempt the Social Consumption Establishment from obtaining all necessary licenses, permits, or local approvals required for food handling and service.

Define Marijuana Product Beverage

CCC regulation 935 CMR 500.002 defines “Beverage” to mean “a liquid intended for drinking,” serving as an all-inclusive term for drinks with or without Tetrahydrocannabinol (THC). The Commission’s proposed regulatory revisions would amend 935 CMR 500.002 to add the following exception to the definition of “Beverage:”

“Under 935 CMR 500.141, a Beverage means a Marijuana-infused Product intended for drinking by Consumers in a designated Consumption Area in a Social Consumption Establishment’s Premises.”

The regulations also define:

- Marijuana Products (or Cannabis Products), which include marijuana, concentrates, “Edibles, Beverages... [and] include Marijuana Infused Products”⁶
- Edibles, which can be consumed by “eating or drinking”⁷
- Marijuana-infused Product (MIP)s, which can include edibles and all other infused products such as tinctures and topicals⁸

Given that “Beverages” is used as a general term throughout the regulations, **it would provide greater clarity and consistency to stakeholders and policymakers to maintain a consistent definition for the term and define and use “Marijuana Product Beverage” where appropriate.**

The term “Marijuana Product Beverages” appears in 935 CMR 500.105(6)(c)(2)(c)⁹ and provides a useful and intuitive term¹⁰ for defining and describing “a Marijuana-infused Product intended for drinking by Consumers.”

To clarify when the Commission is referencing Marijuana Product Beverages and when it is referring to Beverages generally, it should add the following definition between the definitions for “Marijuana Products (or Cannabis Products)” and “Marijuana Product Manufacturer” in **935 CMR 500.002**:

Marijuana Product Beverage means a Marijuana-infused Product intended for drinking by Consumers.

To incorporate this new term, the Commission should make the following regulatory updates:

935 CMR 500.002:

Indoor Smoking Consumption Area means a location where Consumers may consume Marijuana or Marijuana Products through combustion smoke, heat, vaporization, or aerosolization, in addition to Edibles, MIPs, and **Marijuana Product Beverages**, in an enclosed space on the Premises of a Social

⁶ **“Marijuana and its products** [emphasis added], unless otherwise indicated. Marijuana Products includes products that have been Manufactured and contain Cannabis, Marijuana, or an extract from Cannabis or Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including Edibles, Beverages, topical products, ointments, oils and Tinctures. Marijuana Products include Marijuana-infused Products (MIPs) defined in 935 CMR 500.002.”

⁷ “Marijuana Product that is to be consumed by humans by eating or drinking. These products, when created or sold by a Marijuana Establishment or an MTC, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.”

⁸ “Marijuana Product infused with Marijuana that is intended for use or consumption including, but not limited to, Edibles, ointments, aerosols, oils, and Tinctures. A Marijuana-infused Product (MIP), when created or sold by a Marijuana Establishment or an MTC, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1. MIPs are a type of Marijuana Product.”

⁹ “Packaging for Marijuana Product Beverages shall be packages solely in a single serving size. Multiple-serving Beverages are strictly prohibited for sale.”

¹⁰ Alternatively, the Commission might consider replacing “Marijuana Product Beverage” with “Marijuana Infused Beverage.”

Consumption Establishment. An Indoor Smoking Consumption Area shall maintain an adequate filtration system to meet the requirements of 935 CMR 500.141(6)(f). Indoor Smoking Consumption Areas shall be separated from retail sale areas by walls or other barriers and approved by the Commission in accordance with 935 CMR 500.050(6)(b).

Marijuana Products (or Cannabis Products) means Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been Manufactured and contain Cannabis, Marijuana, or an extract from Cannabis or Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including Edibles, **Marijuana Product Beverages**, topical products, ointments, oils and Tinctures. Marijuana Products include Marijuana-infused Products (MIPs) defined in 935 CMR 500.002.

Non-Smoking Consumption Area means a location in a Social Consumption Establishment's Premises that is approved by the Commission and allows Consumers to consume Edibles, MIPs, and **Marijuana Product Beverages** but does not allow for Indoor Smoking or Outdoor Smoking. Social Consumption Establishments that designate a Consumption Area as Non-Smoking may sell Marijuana and Marijuana Products in the Non-Smoking Consumption Area.

Outdoor Smoking Consumption Area means a location where Customers may consume Marijuana or Marijuana Products through combustion smoke, heat, vaporization, or aerosolization, in addition to Edibles, MIPs, and **Marijuana Product Beverages** within a Social Consumption Establishment's Premises and meets the requirements under 935 CMR 500.141(11).

935 CMR 500.141(2)(b)(3): Additionally, for Edibles, **Marijuana-infused Products, or for Marijuana Product Beverages**, the warning, "The impairment effects of (Edibles, MIPs, or Marijuana Product Beverages) may be delayed by two hours or more **depending on several factors, including potency, method of consumption, amount consumed, body-weight of Consumer, previous use, and known tolerance of the Consumer.**"₁

935 CMR 500.141(3)(c): Sale of **Marijuana Product Beverages**. Notwithstanding 935 CMR 500.105(6)(c)2.c., Social Consumption Establishments may sell **Marijuana Product Beverages** in a single serving or multiple servings

935 CMR 500.335(1)(b)(1): Category of Product Type(s). A type of Product including, but not limited to, Marijuana seeds, Marijuana Clones, Marijuana Edibles, **Marijuana Product Beverages**, topical products, ointments, oils, Tinctures, oral dosage forms or any other product identified by the Commission or a Commission Delegee.

It is notable that ***the term "Edible" is inclusive of both food and drink***, and the Commission could use it inclusively for infused food and drink throughout the social consumption regulations rather than explicitly mentioning Beverages (ex. product type-specific packaging). **As the Commission begins regulating Marijuana Infused Food and Marijuana Infused Drink at social consumption establishments, it may find it helpful to define terms for both types of edibles.**

Schedule a social consumption regulatory review within 1 year of the start of exclusivity period

While we are grateful that the Commission has engaged in robust stakeholder engagement throughout this process, we recognize that the Commission and the community can't anticipate every unintended consequence of this new regulatory framework.

Given the slow pace of regulatory reform faced by delivery operators over the past few years, we urge the CCC to proactively ensure it can respond to regulatory and operational issues that arise as this new subsector takes root. **We strongly encourage the CCC to codify within its regulations a Social Consumption**

Regulatory Review to take place no less than 12 months after the start of the exclusivity period to address any issues identified by the Commission or stakeholders related to these new regulations.

Establish a pilot to reduce the public health harms of alcohol

According to the U.S. Department of Health and Human Services, “Alcohol consumption is the third leading preventable cause of cancer in the United States, after tobacco and obesity, increasing risk for at least seven types of cancer.” While both cannabis and alcohol have some level of risk of abuse, 10.2% of all Americans age 12 and older has an alcohol use disorder¹¹ compared to only about 1.3% of American adults who have a cannabis addiction¹².

While more research is needed to understand the full health risks of cannabis, all available empirical and anecdotal data indicate that alcohol has significantly higher social, economic, and health costs.

Enabling people to gather and socialize in an environment where they can choose between alcohol or cannabis would help reduce the stigma around cannabis use, provide harm reduction to individuals who choose cannabis in place of alcohol, and offers Social Consumption Establishments a greater chance of success by encouraging non-cannabis consumers to attend and providing an additional revenue stream.

The Legislature had the opportunity to prohibit alcohol sales and consumption at Social Consumption Establishments and chose not to, and we fully expect MSO lobbyists and lawyers to advocate for the ability to colocate with alcohol establishments – or even to allow their consumers to purchase both products – when the exclusivity period ends.

In the interest of advancing public health and gathering data to inform future decision-making, we strongly encourage you to establish a pilot program during the exclusivity period to offer patrons the choice of consuming alcohol or cannabis (but not both) in the same space. The pilot program should:

- Enable up to three licensees in the Supplemental On-site Consumption and Hospitality On-site Consumption categories to participate with prioritization given to geographic diversity
- Restrict participation to social equity businesses
- Require enhanced incident and data reporting as determined by the Commissioners and Research Department
- Require enhanced Responsible Vendor or other training to ensure staff are adequately trained in
 - Preventing, recognizing, and addressing overconsumption of alcohol and cannabis
 - Preparing and serving alcoholic drinks with appropriate amounts of alcohol
 - De-escalating conflict and dealing with difficult people
- Require any additional appropriate security measures to ensure patrons are not over-served and are not able to obtain additional cannabis or alcohol from servers or other patrons
- Prioritize establishments with access to public transportation and/or robust traffic and safety plans that include
 - Option for leaving vehicles overnight without being towed
 - Partnerships and discounts from rideshare companies
 - Parking lot monitors
 - Paid police details for OUI enforcement
 - Programs that require guests to check their keys and confirm they are not impaired before receiving them back
 - Incentives for designated drivers
 - Checking departing patrons for impairment
- Require more detailed SOPs for addressing impaired patrons
- Require all necessary additional municipal, state, and/or federal licenses and permits
- Require more frequent planned and unannounced visits

¹¹ Addiction Statistics and Demographics, AMERICAN ADDICTION CENTERS, <https://americanaddictioncenters.org/rehab-guide/addiction-statistics-demographics>

¹² Marijuana Use Disorder, YALE MEDICINE, <https://www.yalemedicine.org/conditions/marijuana-use-disorder>

- Require a supplemental, but not cost-prohibitive, fee to cover additional costs associated with reviews and inspections

As our nation's healthcare leader, Massachusetts should demonstrate how to effectively and responsibly offer adults an alternative to alcohol while protecting public health and safety and supporting social equity businesses. A pilot such as this is critical to ensuring that policymakers like yourselves can make data-driven decisions centered around your mandates to advance public health, safety, and equity rather than letting future discussions around alcohol and cannabis social consumption be driven by corporate lobbyists.

Conclusion

Thank you again for all of the thoughtful and tireless work that you and your team have put into developing this robust, flexible, and promising new social consumption framework.

We are greatly encouraged by your collaborative and deliberative approach and greatly appreciate your ongoing engagement and receptivity to feedback. Thank you very much for considering these recommendations to make your regulations even stronger in their ability to protect public health and safety while encouraging equitable economic opportunity.

Please do not hesitate to contact us with any questions or if we can be a resource by emailing Equitable Opportunities Now Policy Co-Chairs Armani White (armani@masseon.com) and Kevin Gilnack (kevin@masseon.com).

Respectfully,

Shanel Lindsay, Equitable Opportunities Now

Devin Alexander, Mass. Cannabis Equity Council & Rolling Releaf

Chris Fevry, Mass. Cannabis Equity Council & Dris Brands

Kevin Gilnack, Equitable Opportunities Now & KG Consulting LLC (SEP 4th Cohort)

Jordan Mackenzie Whittaker, Equitable Opportunities Now & The Weedaker Group (SEP 4th Cohort)

Philip Smith, Mass. Cannabis Equity Council & Freshly Baked Co.

Armani White, Equitable Opportunities Now & Firehouse

Appendix A: Suggested Red-Lined Regulatory Language

935 CMR 500.002

Summary

- Defines "Marijuana Product Beverage" and updates related "Beverage" references
- Removes unnecessary limit on number of events a Marijuana Event Organizer can hold per year

Language

Indoor Smoking Consumption Area means a location where Consumers may consume Marijuana or Marijuana Products through combustion smoke, heat, vaporization, or aerosolization, in addition to Edibles, MIPs, and **Marijuana Product Beverages**, in an enclosed space on the Premises of a Social Consumption Establishment. An Indoor Smoking Consumption Area shall maintain an adequate filtration system to meet the requirements of 935 CMR 500.141(6)(f). Indoor Smoking Consumption Areas shall be separated from retail sale areas by walls or other barriers and approved by the Commission in accordance with 935 CMR 500.050(6)(b).

Marijuana Event Organizer means a type of license within the Social Consumption Establishment license classes where an individual or entity may coordinate Temporary Consumption Events, not to exceed five

consecutive days ~~or 24 events annually~~, after obtaining a Temporary On-site Consumption Permit for each Temporary Consumption Event by the Commission. Marijuana Event Organizers may select in its application the option to Warehouse Marijuana and Marijuana Products at its Principal Place of Business. Marijuana Event Organizers are responsible for all security, age verification, and all other activities at a Temporary Consumption Event.

Marijuana Products (or Cannabis Products) means Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been Manufactured and contain Cannabis, Marijuana, or an extract from Cannabis or Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including Edibles, **Marijuana Product Beverages**, topical products, ointments, oils and Tinctures. Marijuana Products include Marijuana-infused Products (MIPs) defined in 935 CMR 500.002.

Marijuana Product Beverage means a Marijuana-infused Product intended for drinking by Consumers.

Non-Smoking Consumption Area means a location in a Social Consumption Establishment's Premises that is approved by the Commission and allows Consumers to consume Edibles, MIPs, and **Marijuana Product Beverages** but does not allow for Indoor Smoking or Outdoor Smoking. Social Consumption Establishments that designate a Consumption Area as Non-Smoking may sell Marijuana and Marijuana Products in the Non-Smoking Consumption Area.

Outdoor Smoking Consumption Area means a location where Customers may consume Marijuana or Marijuana Products through combustion smoke, heat, vaporization, or aerosolization, in addition to Edibles, MIPs, and **Marijuana Product Beverages** within a Social Consumption Establishment's Premises and meets the requirements under 935 CMR 500.141(11).

Temporary Consumption Event means an event or series of events, not to exceed five consecutive days ~~or 24 events annually~~, that a Marijuana Event Organizer facilitates after obtaining a Temporary On-site Consumption Permit from the Commission.

935 CMR 500.050(6)(a)(1):

A Social Consumption Establishment shall provide Consumers access to non-infused food and **beverages that include but are not limited to** water. Nothing in 935 CMR 500.050, shall exempt the Social Consumption Establishment from obtaining all necessary licenses, permits, or local approvals required for food handling and service.

935 CMR 500.050(6)(b)(3)(e)(ii)

~~Only~~ Marijuana Establishments ~~licensed to conduct retail sale~~ may participate in the Temporary Consumption Event.

935 CMR 500.050(6)(b)(3)(d)

~~A Marijuana Event Organizer shall organize no more than 24 Temporary Consumption Events per year.~~

Applications for the approval of the Temporary On-site Consumption Permit shall include the location or address of the Temporary Consumption Event and shall be submitted no later than 120 days prior to the date of ~~the~~ **a multiple-day Temporary Consumption Event and no later than 30 days prior to a single-day Temporary Consumption Event, provided, however, that the Commission may at its discretion consider applications for approval of a Temporary Consumption Event Permit submitted after the deadline.** A Marijuana Event Organizer shall obtain a Temporary On-site Consumption Permit prior to the event start date. A Marijuana Event Organizer may be granted approval of Temporary On-site Consumption Permit for a single day and up to five consecutive days. No Temporary On-site Consumption Permit shall be approved for longer than 5 consecutive days.

935 CMR 500.050(9)

Limitations on the Number and Control of Social Consumption Establishments.

a. No Person or Entity Having Direct or Indirect Control shall be granted or hold more than three Supplemental On-site Consumption Licenses, three Hospitality On-site Consumption Licenses, and three Marijuana Event Organizer licenses.

~~b. As a condition of being hosted by the Non-Cannabis Business, a Hospitality On-site Consumption Licensee shall not:~~

~~i. Accept Ownership or Control interest in the license by a Non-Cannabis Business; or~~

~~ii. Provide a set percent or a set portion of sales to the Non-Cannabis Business.~~

~~The Hospitality On-site Consumption Licensee may pay a fee or rent to the Non-Cannabis Business for hosting the Social Consumption Establishment.~~

935 CMR 500.500(1)(d)

License Types	Application Fees (Indoor/Outdoor)	Annual License Fee (Indoor/Outdoor)
Social Consumption Establishment: Supplemental On- site Consumption	\$1,500 \$750	\$5,000 \$2,500
Social Consumption Establishment: Hospitality On-site Consumption	\$1,500	\$10,000
Social Consumption Establishment: Marijuana Event Organizer	\$1,500 \$750	\$5,000 \$2,500

935 CMR 500.500(6)

Summary

- Establish an emerging social consumption market with at least three of each license type in operation before starting the exclusivity period
- Require the CCC to determine that the goals of its exclusivity period **have** been met before ending it
- Retain exclusivity period of no less than 60 months

Language

~~(b)~~**(c)** Notwithstanding 935 CMR 500.050(6)(b)3.e.v., Social Consumption Establishment licenses shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of **Social Equity Businesses**; Economic Empowerment Priority Applicants; ~~or~~ Social Equity Program Participants; **or** Microbusinesses and Craft Marijuana Cooperatives, for a period of ~~36-60~~ months from the date the ~~first third Social Consumption Establishment Supplemental On-Site Consumption Licensee, third Hospitality On-site Consumption Licensee, and third Marijuana Event Organizer Licensee~~ storing cannabis at their primary place of business receives a notice to commence operations, provided, however, that the Commission may, by vote, decide to ~~extend~~ **conclude** that period following a determination that the goal of the exclusivity period 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 of the law, by farmers, and by businesses of all sizes, has ~~not~~ been met...

3. The licenses may be made available to any qualifying applicants after ~~the 36-60-month period, unless~~ the Commission affirmatively votes to ~~extend~~ **conclude** the period of exclusivity. ~~by a period of 12-24 months after the first 36-60-month period.~~ ~~Any subsequent Conclusion extension~~ of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1., have ~~not~~ been met.

935 CMR 500.141(2)(b)(3)

Additionally, for Edibles, **Marijuana-infused Products, or for Marijuana Product Beverages**, the warning, "The impairment effects of (Edibles, MIPs, or Marijuana Product Beverages) may be delayed by two hours or more **depending on several factors, including potency, method of consumption, amount consumed, body-weight of Consumer, previous use, and known tolerance of the Consumer.**"₁

935 CMR 500.141(3)(c)

Sale of **Marijuana Product Beverages**. Notwithstanding 935 CMR 500.105(6)(c)2.c., Social Consumption Establishments may sell **Marijuana Product Beverages** in a single serving or multiple servings

935 CMR 500.141(3)(e)

Sale of Shelf-stable Products. A Social Consumption Establishment ~~may~~ **shall** sell food **and drink items that are** pre-packaged and ~~;~~ Shelf-stable, ~~and drink items~~ other than Edibles, ~~if it acquires all necessary~~ and seek all licenses and permits to do so, **provided, however, that a Social Consumption Establishment may sell made to order marijuana-infused food and drink that has been prepared in accordance with a standard operating procedure and recipe that has been reviewed and approved by the Commission with all necessary licenses and permits required to do so...**

935 CMR 500.141(4)(h)

A Social Consumption Establishment may sell food and beverages separately and apart from Marijuana and Marijuana Product sale, and may sell made to order marijuana-infused food and drink that has been prepared in accordance with a standard operating procedure and recipe that has been reviewed and approved by the Commission with all necessary licenses and permits required to do so.

935 CMR 500.335(1)(b)(1)

Category of Product Type(s). A type of Product including, but not limited to, Marijuana seeds, Marijuana Clones, Marijuana Edibles, **Marijuana Product Beverages**, topical products, ointments, oils, Tinctures, oral dosage forms or any other product identified by the Commission or a Commission Delegee.