

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

BRANT SMITH

Plaintiff,

v.

BRYAN CAFFERELLI, IN HIS CAPACITY AS
COMMISSIONER OF THE DEPARTMENT OF
CONSUMER PROTECTION FOR THE STATE
OF CONNECTICUT,

Defendant.

Civil Action No.: 25-CV-1728 (VDO)

INTRODUCTION

Plaintiff is an individual who sought to obtain a license to engage in the cultivation, growing and propagation of the cannabis plant at an establishment with not less than 15,000 square feet of grow space pursuant to **Sec. 21a-420n** of the Connecticut General Statutes (“CGS”). He brings the instant action against Bryan Cafferelli, in his capacity as Commissioner of the Department of Consumer Protection, challenging the constitutionality of Connecticut's marijuana licensing program, as enacted and administered by the Defendant.

PARTIES

1. Plaintiff Smith is over the age of 21, has been a resident of the State of Connecticut for more than 31 years and has sought to obtain a cultivation license under The Responsible and Equitable Regulation of Adult-Use Cannabis Act ("RERACA"), Public Act 21-1, Conn. Gen. Stat. § 21a-420 et seq., enacted by the State of Connecticut in 2021. As a result of Connecticut's unlawful licensing scheme, he has been unable to obtain a license and has standing to bring this action.

2. Defendant BRYAN CAFFERELLI is the Commissioner of the Department of Consumer Protection for the State of Connecticut, with a business address of 450 Columbus Blvd., Suite 901, Hartford CT 06103.

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 & 1343 in that this action arises under federal law.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

5. Injunctive and declaratory relief is authorized by 28 U.S.C. § 2201.

STATEMENT OF APPLICABLE FACTS COMMON TO ALL COUNTS

6. The Responsible and Equitable Regulation of Adult-Use Cannabis Act ("RERACA"), Public Act 21-1, Conn. Gen. Stat. § 21a-420 et seq., was enacted by the State of Connecticut in 2021.

7. Pursuant to RERACA, Connecticut has instituted a licensing program to allow individuals to obtain, among other things, a license to engage in the cultivation, growing and propagation of the cannabis plant at an establishment with not less than 15,000 square feet of grow space pursuant to CGS Sec. 21a-420n.

8. Under RERACA, "Social Equity Applicants" ("SEAs") have a priority over all other applicants for licenses

9. RERACA defines SEAs as follows: "Social equity applicant" means a person that has applied for a license for a cannabis establishment, where such applicant is controlled, and at least sixty five per cent owned, by an individual or individuals, or such applicant is an individual, who: (A) Had an average household income of less than three hundred per cent of the state median

household income over the three tax years immediately preceding such individual's application; and (B) (i) Was a resident of a disproportionately impacted area for not less than five of the ten years immediately preceding the date of such application; or (ii) Was a resident of a disproportionately impacted area for not less than nine years prior to attaining the age of eighteen.

10. The RERACA reserves 50% of adult-use marijuana licenses for SEAs.

11. The Department of Consumer Protection (the “Department”) has jurisdiction over the adult-use cannabis market and issues licenses to cannabis establishments.

12. On February 3, 2022, the Department began accepting applications for licenses for adult-use cannabis establishments, which initially designed to be issued to general and SEAs in limited numbers as follows:

- a. Disproportionately Impacted Area Cultivator: February 3, 2022 (non-lottery) to May 4, 2022
- b. Retailer: February 3, 2022, to May 4, 2022: 6 general licenses, 6 Social Equity licenses
- c. Micro-cultivator: February 10, 2022, to May 11, 2022: 2 general licenses, 2 Social Equity licenses
- d. Delivery Service: February 17, 2022, to May 18, 2022: 5 general licenses, 5 Social Equity licenses
- e. Hybrid Retailer: February 24, 2022, to May 25, 2022: 2 general licenses, 2 Social Equity licenses
- f. Food and Beverage: March 3, 2022, to June 1, 2022: 5 general licenses, 5 Social Equity licenses
- g. Product Manufacturer: March 10, 2022, to June 8, 2022: 3 general licenses, 3 Social Equity licenses
- h. Product Packager: March 17, 2022, to June 15, 2022: 3 general licenses, 3 Social Equity licenses
- i. Transporter: March 24, 2022, to June 22, 2022: 2 general licenses, 2 Social Equity licenses

13. Upon information and belief, the numbers of lottery applicants for each category was as follows:

- a. **Retailer:** 8,360 equity applications, 7,246 general applications. Six licenses will be awarded in each category.
- b. **Hybrid medical/adult-use retailer:** 6,921 equity applications, 1,296 general applications. Two licenses will be issued in each category.
- c. **Micro-cultivation:** 5,528 equity applications, 2,936 general applications. Two licenses will be awarded in each category.
- d. **Food and beverage manufacturer:** 1,019 equity applications, 952 general applications. Five licenses will be awarded in each category.
- e. **Product manufacturing:** 436 equity applications and 425 general applications. Three licenses will be issued in each category.
- f. **Delivery:** 944 equity applications and 262 general applications. Five licenses will be awarded in each category.
- g. **Transporter:** 167 equity applications and 325 general applications. Two licenses will be issued in each category.
- h. **Packager:** 112 equity applications, 364 general applications. Three licenses will be awarded in each category.

14. As of the date of this Complaint, a total of **zero** non-SEA marijuana cultivator licenses have been issued in Connecticut.

15. No lotteries have ever been conducted for non-SEAs. No lotteries are currently being conducted for non-Social Equity cultivator licenses, and no future lotteries have been scheduled (see https://portal.ct.gov/cannabis/knowledge-base/articles/licensing/licensing-home-page?language=en_US).

16. The licensing regime under RERACA restricts licenses to in-state residents and preferences SEAs. To qualify as an SEA under RERACA, the applicant may not exceed a statutory income threshold. Plaintiff exceeds that income threshold. Further, SEAs must meet the disproportionately impacted area residency requirements. Plaintiff cannot meet the disproportionately impacted area residency requirements. *See* Conn. Gen. Stat. § 21a-420(51).

17. Based on a plain reading of RERACA, Plaintiff does not qualify as a SEA and has been unable to apply for or obtain a marijuana cultivation license.

18. Plaintiff has intended and intends to sell or distribute cannabis products outside of Connecticut.¹

19. The protectionist aspects of RERACA limit SEA status based on geographic and income limitations and privilege in-state “SEAs” above all others.

20. Plaintiff has been ready, willing and able to otherwise undertake marijuana cultivation (as marijuana is defined by the State of Connecticut) and participate in all aspects of the legal interstate cannabis commerce market (which includes but is not limited to the sale and cultivation of products containing no more than delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis and now, medical marijuana) but has been prevented from doing so by the protectionist aspects of RERACA.

¹ As of the date of the original filing through the date of this Amended Complaint, Connecticut classifies certain federally-defined “hemp” products as “marijuana” under RERACA, requiring a RECARA marijuana cultivation license.

Many of those same “marijuana” products (Delta 8 in any concentration, for example) are considered federally legal “hemp” under the 2018 Farm Bill (the 2018 Farm Bill defines “marijuana” only as cannabis with a **delta-9 tetrahydrocannabinol concentration of more than 0.3** percent on a dry weight basis.” Federal Register / Vol. 86, No. 11 / Tuesday, January 19, 2021 / Rules and Regulations. Pg 5597.) Both hemp and marijuana are derived from the *cannabis sativa* plant.

Notably, “[i]n an April 2026 final rule, the Department of Justice (DOJ) reclassified medical marijuana and its derivatives to Schedule III under the CSA when they are ‘included in [a Food & Drug Administration (FDA)]-approved drug product or are subject to a state-issued license to manufacture, distribute, and/or dispense marijuana or products containing marijuana for medical purposes.” [https://www.congress.gov/crs-product/IF12715; 2026-08176 \(91 FR 22714\)](https://www.congress.gov/crs-product/IF12715; 2026-08176 (91 FR 22714)). This change makes clear that there is an interstate market for not only federal hemp, but also for medical marijuana. RECARA’s SEA rules prevent Plaintiff from participating in this new medical marijuana interstate market.

21. Connecticut's regulatory scheme under RERACA is unlawfully protectionist, imposes an undue burden on interstate commerce and therefore violates the Dormant Commerce Clause of the U.S. Constitution.

22. As established by the U.S. Court of Appeals for the Second Circuit in Variscite NY Four, LLC v. New York State Cannabis Control Board, 2025 U.S. App. LEXIS 20371 (2d Cir. Aug. 12, 2025) the Dormant Commerce Clause applies to state cannabis markets despite the federal prohibition on marijuana. This law controls this case.

23. Plaintiff seeks a declaration from this Court that Connecticut's protectionist licensing provisions under RERACA are unconstitutional and further seeks an injunction to prevent the enforcement of those discriminatory licensing provisions.

COUNT ONE
CONNECTICUT'S ADULT USE MARIJUANA LICENSING SCHEME VIOLATES THE
DORMANT COMMERCE CLAUSE

24. Plaintiffs allege and incorporate by reference all allegations in the paragraphs above.

25. The Commerce Clause of the U.S. Constitution grants Congress the power to regulate interstate commerce. The "dormant" aspect of this clause prohibits states from enacting legislation that discriminates against or unduly burdens interstate commerce.

26. The Dormant Commerce Clause is “a doctrine inferred from the Commerce Clause of the United States Constitution, U.S. Const. art. I, § 8, cl. 3.” Entergy Nuclear Vt. Yankee, LLC v. Shumlin, 733 F.3d 393, 397 (2013).

27. The Dormant Commerce Clause still applies to state-level marijuana markets. See Variscite NY Four, LLC v. New York State Cannabis Control Board, 2025 U.S. App. LEXIS 20371 (2d Cir. Aug. 12, 2025). The dormant Commerce Clause prohibits the states from imposing

restrictions that benefit in-state economic interests and impermissibly burden interstate commerce.

28. Any statute that discriminates against interstate commerce on its face or in effect is subject to heightened scrutiny by this Court.

29. Under the Dormant Commerce Clause, a law that clearly discriminates against interstate commerce is per se invalid unless the government has no other means to advance a legitimate local purpose.

30. For the purposes of the Dormant Commerce Clause, discrimination means the differential treatment of in-state and out-of-state economic interests in a way that benefits the former and burdens the latter. A law may discriminate against interstate commerce on its face, harbor a discriminatory purpose, or be discriminate in its effect.

31. Connecticut's RERACA licensing scheme offends the Dormant Commerce Clause because it seeks to build up domestic commerce through unconstitutional burdens upon interstate commerce.

32. RERACA violates the bright-line rule under the Dormant Commerce Clause which prohibits the enforcement of state laws driven by economic protectionism.

33. RERACA is subject to "strict scrutiny" and cannot survive constitutional review because there are non-discriminatory alternatives for achieving Connecticut's stated goals.²

34. Connecticut's licensing program is not only discriminatory on its face but also has a discriminatory effect, as it acts as a barrier to access to the interstate market, creating among other things market inefficiencies and higher prices.

² If Connecticut wishes to privilege SEAs it may do so "as a market participant"--but not "as a market regulator," which is its role here. See S.-Cent. Timber Dev., Inc. v. Wunnicke, 467 U.S. 82, 98-99, 104 S. Ct. 2237, 81 L. Ed. 2d 71 (1984).

35. The United States Congress has not in any manner conferred upon the State of Connecticut the ability to restrict the flow of interstate marijuana commerce.

36. Plaintiff has been harmed and continues to suffer harm as a result of the State of Connecticut's violation of the Dormant Commerce Clause, which has and currently prevents him from obtaining a marijuana cultivation license because he is not a SEA under RECARA.

COUNT TWO
INJUNCTIVE RELIEF

37. Plaintiff alleges and incorporates by reference all allegations in the paragraphs above.

38. Plaintiff has demonstrated he has standing and his injuries are within the zone of interests protected by the Dormant Commerce Clause

39. Plaintiff is likely to succeed on the merits of this action.

40. Plaintiff has no adequate remedy at law and faces irreparable harm.

41. The balance of harms weighs in favor of the Plaintiff, as the injunction will not harm Defendant.

42. An injunction is in the best public interest.

43. Plaintiff is entitled to the issuance of relief in the form of an immediate temporary restraining order preventing the further enforcement of RECARA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request an order from this Court granting the following relief:

- a) Declaring that Connecticut's protectionist marijuana licensing provisions are unconstitutional under the Dormant Commerce Clause;

- b) Issuing a permanent injunction prohibiting Defendant from enforcing the unconstitutional licensing provisions of RERACA;
- c) Awarding Plaintiff his reasonable attorneys' fees and costs incurred in this action; and
- d) granting Plaintiff such other and further relief as the Court deems just and proper.

Dated September 24, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record by email on September 28, 2026.



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