HPI CANNA

Testimony for NYS Senate Cannabis Committee

By Kim Tanami, CEO

Good morning Senator Cooney, thank you for the opportunity to speak to you today about the serious issues facing the cannabis industry.

My name is Kim Tanami and I am, first and foremost, a mother to five children and the founder and CEO of Hemp Productions Incorporated (HPI) and HPI Canna. We are a woman-owned business and market leader in cannabis cultivation. We partner with approximately forty (40) other growers to bring high-quality, ethically produced cannabis to the New York market. In addition to cultivation, we own and operate one of the largest state-of-the-art drying, processing, and extraction centers in the Northeast United States. I am passionate about my work and my company and I welcome the opportunity to discuss the serious headwinds facing our industry.

I want to point out that, unlike other areas of the cannabis industry, farmers have yet to see state support. For example CAURD licensees can access funding and capital through DASNY at no personal cost or guarantee. The same is not true for farmers. On the contrary, we oftentimes have to extend credit to the retail side through consignments. And the slow rollout of retail sites has been a very real problem for growers. We are sitting on thousands of pounds of product that we cannot legally sell.

This is not to disparage the retail side of the industry, or in any way put us in conflict with our buyers; however, there is no disputing that State support for our industry has focused exclusively on the retail side, often to the detriment of growers. And to be clear, it is no exaggeration to say that cultivators, and HPI in particular, are the backbone and infrastructure of the industry.

But the problems we face in state support are nothing compared to the problems we face in the form of taxation. Simply put, the taxes on cannabis are too high. For an average pound of product, taxes represent between one-quarter and one-third of the cost. That is unlike any other product. Take, for example, another highly regulated and taxed product: cigarettes. The newly enacted budget raises the cigarette tax by one dollar, where it now, after decades of taxation, has reached the same level of taxes as cannabis. Our industry is starting out at the same place it took decades to arrive at for cigarettes.

I think it is more important to understand the practical structure of New York's cannabis market, to understand why, in particular, the potency tax is so detrimental to the industry. Unlike the retail side, which retains 100% of the mark-up of product price from the distributor, the supply side price must be split between cultivator, processor, distributor, manufacturer and brand. This margin compression on the supply side, in addition to demand elasticity means our products are sometimes twice as expensive as illicit products. Clearly, we have significant costs not incurred by illicit operators- costs such as overhead, testing, packaging and labeling, and the like. However, the real issue is that taxes dramatically increase the price of our product.

We urge you to take multiple steps in assisting our industry. First, we suggest that you expand state sponsored lending services to all sectors of the cannabis industry. Second, we believe that there is a role for the State in acting as a clearinghouse for cannabis related transactions. If the State were to act a clearinghouse it would obviate issues around credit card processing, large financial institution participation and consignments. Third, we cannot stress enough that the taxes on cannabis products are too high. We cannot continue to operate within the constraints imposed by the State. We urge you to take immediate action to support our industry.

Unlike other U.S. states that legalized recreational cannabis — marijuana distributors in New York face a potency tax based on the level of THC in their products. Now like other states that legalized recreational cannabis, this supply chain tax is passed onto the end consumer in addition to the 13% retail tax already imposed, ultimately making our legal products about 50% more expensive than those in the illicit market. By eliminating this distribution tax, and allowing a three-year grace period for the excise tax, we can give oxygen to our supply chain, which ultimately lowers the price point on the shelf and makes legal products more competitive with the illicit ones, which in turn will grow the tax base for the State. Lowering the price point on the shelf will also bring over consumers who still shop illegally and create a bigger market for everyone. This growth will spur more brands, more companies, more jobs and ultimately more tax revenue for the State. How do I know this? Well, let's look at California. Actually, let's not just look; let's learn from California and let's make every effort NOW to ensure that New York doesn't fall victim to the same preventable fate.

It only took three and a half years after recreational legalization for California's entire cannabis supply chain to quickly become an ICU of distressed assets... circled and surrounded by publicly traded MSOs, hungry to place their stake in the nation's cannabis production epicenter. A surplus of flower drove down the wholesale price per pound; unable to incentivize consumers away from the illicit market, retail operators dwindled in numbers from 5000 to 800; and at the center of the problem was an unworkable tax regime and structure as well as a failure on the part of legislature to inject lifesaving changes into a system at its very first signs of breakdown. New York is in a privileged position in that we can learn from lessons past and act now to ensure that our industry is sustainable and healthy.

I want to conclude by drawing your attention to two reports. In 2019, the city in Los Angeles County reduced its supply-chain tax, and in 2020, it bargained the city council out of a proposed tax increase and instead increased the hours of operation for cannabis retailers — effectively boosting their sales and the tax they generate. Those steps caused tax revenue to swing from underperforming to outpacing expectations — and also resulted in a more than a doubling of cannabis-related jobs from 2019 to 2021, according to Adam Hijazi, a founding board member of the Long Beach Collective Association, a group that advocates for safe, legal cannabis use. Hijazi credits the tax reductions for a jump in cannabis tax revenue from $4 million in 2019 to $8 million in 2020 and $9.3 million in 2021.Rex Richardson, Long Beach's vice mayor, has said that the counter-intuitive move of lowering taxes to bring in more tax revenue could show the troubled industry a way forward. I agree.

Similarly, I would like to introduce a May 2022 report by Precision Advocacy co-released with the Reason Foundation and Good Farmers, Good Neighbors that provided an empirical model to estimate the degree to which California's tax regime affects participation within its commercial cannabis market and how participation may change through different approaches to taxation. Notably, the report demonstrates how California could increase legal sales and bring in 123% more in monthly tax revenue by 2024 by eliminating its hotly debated cultivation tax. Following the release of this report and countless rallies on Sacramento's Capitol Steps, California finally cut its cultivation tax, although many operators say the move occurred too late to save what could have become the nation's largest cannabis market.

Today, the nation's cannabis hopes and dreams fall on New York, and we have to get it right. New York City residents consume more cannabis than any other metropolis worldwide, in fact double that of Los Angeles, according to a report by German tech company Seedo. We have the most progressive cannabis legislation of any state, thanks to all of you. But we also have a tax regime that could make this beautiful and grand experiment a grand failure. On behalf of every farmer, processor, manufacturer, distributor, retail operator and consumer, I beg you to help us set the gold standard. Thank you for your time today.