

Martha's Vineyard Dispensary Sues for Right to Deliver Cannabis from Mainland Massachusetts

Martha's Vineyard, an island off the coast of Massachusetts, is renowned for its 23 miles of scenic hills and beaches. It's a popular destination for summer vacationers, known for its quaint Victorian architecture. As of July 2021, the island had one medical cannabis dispensary (Fine Fettle Dispensary) and one adult-use only dispensary (Island Time), which opened in August 2021.

The cost of living is high in Martha's Vineyard, and for business owners, it's expensive to transport goods from the mainland across the Vineyard Sound. For cannabis businesses, it's also federally illegal to have cannabis products delivered from the mainland.

Legal Battle Over Cannabis Delivery

Recently, Geoff Rose, the owner of Island Time, filed a lawsuit against the Massachusetts Cannabis Control Commission (CCC) regarding a rule that bans him from transporting cannabis by boat from the mainland. "For more than 11 years, my efforts have centered on providing safe and responsible cannabis to local residents and visitors alike," Rose explained to the Vineyard Gazette. "I'm hoping that the court will mandate the commission take immediate action to allow us to transport the product from the mainland." He added that the rule puts a burden on him as a business owner since he can only sell cannabis that he cultivates on the island.

This rule was put in place because of state and federal regulations about cannabis being moved across water or through airspace. Rose's lawsuit claims that Vineyard Sound is still within the state's jurisdiction.

Shutting Down Operations

Earlier in May, the other dispensary and sole owner of the island's only cannabis production license, Fine Fettle Dispensary, announced that it would be shutting down operations. "Very sadly, we have had to make the decision to slow down and then ultimately shut down operations on the Vineyard," Fine Fettle Dispensary president Benjamin Zachs said to the Vineyard Gazette. Up until now, Island Time obtained all of its cannabis products from Fine Fettle Dispensary.

To bypass this new change, Rose inquired with the CCC about ordering cannabis from the mainland, but the CCC rejected the idea, citing the limitations of violating federal law. In March, Rose had cannabis delivered by boat anyway, and the products were delivered on a Steamship Authority ferry, which is run by the U.S. Coast Guard and falls under federal authority.

The unnamed supplier that Rose worked with later received a warning. He was told not to sell the products delivered via ferry, but that order was later lifted, and Rose was able to sell out of all of the products.

Temporary Closure and Hope for Reopening

Last week, Rose officially closed his dispensary and informed customers that he is unable to receive any new product. “We will reopen when we are able to source products from the mainland,” Rose wrote. “I am hopeful for a resolution soon that will result in more products, choices, and value for you, our valued customer.”

Through the lawsuit, Rose is calling for the Suffolk County Superior Court to grant an injunction so that he can have cannabis delivered to the island. “[Island Time] is being starved to death by the Commission’s arbitrary, unreasonable, and inconsistent policy against transporting marijuana and marijuana products over state territorial waters,” Rose explained, warning that his employees will seek other jobs if his business is closed for two weeks or more.

The Commission’s Stance and Potential Solutions

On May 9, the CCC met to discuss the situation and potential courses of action. Not only would the lack of delivery cause Island Time to close permanently, but it would also leave medical cannabis patients living on the island without any access to medicine. “If we do nothing, you are going to have 234 patients with no medical access on the Island. That’s the reality of it,” said commissioner Kimberly Roy.

Additionally, local resident Sally Rizzo filed an affidavit with the supreme court as well. “If I have no retail source of marijuana for my medical needs, my quality of life will suffer significantly,” she wrote. “I am unwilling—and should not be compelled—to risk purchasing untested marijuana from the illicit black market or purchasing marijuana from the Massachusetts mainland and transporting it to my home via the Steamship Authority to treat my documented medical condition.”

The commission itself didn’t provide any comment to Vineyard Gazette due to ongoing litigation, and only verified what the current law allows or doesn’t allow. “At this time, transportation of marijuana from the Commonwealth mainland to the island counties is not one of those accommodations,” the CCC stated. “To the extent permitted by law, the Commission has been discussing what may be possible in terms of extending additional accommodations to these licensees and will be scheduling a public meeting on Martha’s Vineyard within the next month to continue the conversation.”

Examples from Other States

There are examples of products being delivered in some other states, such as New York, where ferry delivery over water is still counted as “ground transport.” Similar rules are in place for the delivery of cannabis from mainland California to Catalina Island.

As Martha’s Vineyard grapples with these legal challenges, the future of cannabis delivery to the island remains uncertain. The outcome of Rose’s lawsuit could set a precedent for how cannabis businesses operate in similar jurisdictions.

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