

# Senate Calendar

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TUESDAY, FEBRUARY 23, 2016

SENATE CONVENES AT: 9:30 A.M.

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**ACTION CALENDAR**

**NEW BUSINESS**

**Third Reading**

**S. 154.**

An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening.

**Second Reading**

**Favorable**

**S. 256.**

An act relating to extending the moratorium on home health agency certificates of need.

**Reported favorably by Senator Lyons for the Committee on Health & Welfare.**

(Committee vote: 5-0-0)

**Favorable with Recommendation of Amendment**

**S. 212.**

An act relating to court-approved absences from home detention and home confinement furlough.

**Reported favorably with recommendation of amendment by Senator White for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7554 is amended to read:

§ 7554. RELEASE PRIOR TO TRIAL

(a) Any person charged with an offense, other than a person held without bail under section 7553 or 7553a of this title, shall at his or her appearance before a judicial officer be ordered released pending trial in accordance with this section.

(1) The defendant shall be ordered released on personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by

the judicial officer unless the judicial officer determines that such a release will not reasonably ensure the appearance of the person as required. In determining whether the defendant presents a risk of nonappearance, the judicial officer shall consider, in addition to any other factors, the seriousness of the offense charged and the number of offenses with which the person is charged. If the officer determines that such a release will not reasonably ensure the appearance of the defendant as required, the officer shall, either in lieu of or in addition to the ~~above~~ methods of release in this section, impose the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ensure the appearance of the defendant as required:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, association, or place of abode of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) Require the execution of a secured appearance bond in a specified amount and the deposit with the clerk of the Court, in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the appearance of the defendant as required.

(E) Require the execution of a surety bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

(F) Impose any other condition found reasonably necessary to ensure appearance as required, including a condition requiring that the defendant return to custody after specified hours.

(G) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554e of this title.

(2) If the judicial officer determines that conditions of release imposed to ensure appearance will not reasonably protect the public, the judicial officer may impose in addition the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ensure protection of the public:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, association, or place of abode of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) Impose any other condition found reasonably necessary to protect the public, except that a physically restrictive condition may only be imposed in extraordinary circumstances.

(E) If the defendant is a State, county, or municipal officer charged with violating section 2537 of this title, the Court may suspend the officer's duties in whole or in part, if the Court finds that it is necessary to protect the public.

(F) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554e of this title.

\* \* \*

Sec. 2. 13 V.S.A. § 7554b is amended to read:

§ 7554b. HOME DETENTION PROGRAM

(a) ~~Definition~~ Definitions. As used in this section:

(1) ~~“home~~ Home detention” means a program of ~~confinement~~ pretrial detention and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections or local sheriff's office providing electronic monitoring. ~~The Court may authorize scheduled absences such as work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections.~~ A defendant who is on home detention shall remain in the custody of the Commissioner of Corrections with conditions set by the ~~Court~~ court.

(2) “Listed crime” shall have the same meaning as provided in section 5301 of this title.

(b) Procedure. The status of a defendant who is detained pretrial for more than seven days in a correctional facility for lack of bail may be reviewed by

the Court to determine whether the defendant is appropriate for home detention. The request for review may be made by either the Department of Corrections or the defendant. After a hearing, the Court may order that the defendant be released to the Home Detention Program, providing that the Court finds placing the defendant on home detention will reasonably assure his or her appearance in Court when required and the proposed residence is appropriate for home detention. In making such a determination, the Court shall consider:

- (1) the nature of the offense with which the defendant is charged;
- (2) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and
- (3) any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

(c)(1) Conditions for defendants charged with an offense that is not a listed crime. The court may authorize scheduled absences such as for work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections or the sheriff's office providing the electronic monitoring.

(2) Conditions for defendants charged with a listed crime. The court may approve authorized absences from the home only if such absences are clearly identified on the record with respect to the day of the week, time of day, the purpose of the absence, the permissible duration of the absence, the places that may be visited during the absence, and the frequency with which the absence may recur. The absences may commence no earlier than 24 hours following the issuance of the order. The day the order is issued, the court shall provide an electronic copy of the order to the prosecutor's office. The Department of Corrections or the sheriff's office providing the electronic monitoring may reschedule court-authorized absences only after providing 72 hours' advance notice of the changes to the prosecutor's office. Only medical emergencies are exempted from the notification requirements of this subdivision.

(d) Failure to comply. The Department of Corrections may revoke a defendant's home detention status for an unauthorized absence or failure to comply with any other condition of the Program and shall return the defendant to a correctional facility.

Sec. 3. 13 V.S.A. § 7554e is added to read:

§ 7554e. COMMUNITY-BASED ELECTRONIC MONITORING

## PROGRAM

(a) Definitions. As used in this section:

(1) “Community-based electronic monitoring” means an integrated community detention program that provides 24-hours-a-day, seven-days-a-week electronic monitoring that restricts the defendant to a preapproved community continuously with supervision and immediate response by the sheriff’s office that is providing the electronic monitoring. A court may impose community-based electronic monitoring as a condition of release prior to trial in accordance with subdivisions 7554(a)(1)(G) or 7554(a)(2)(F) of this title.

(2) “Listed crime” shall have the same meaning as provided in section 5301 of this title.

(b) Procedure. The court may order that a defendant charged with an offense that is not a listed crime be released prior to trial in accordance with section 7554 of this title to a program of community-based electronic monitoring, provided that the court finds that placing the defendant on community-based electronic monitoring will reasonably assure his or her appearance in court when required and that the proposed community is an appropriate placement for the defendant. In making such a determination, the court shall consider:

(1) the nature of the offense with which the defendant is charged;

(2) the defendant’s prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and

(3) any risk or undue burden to other persons who reside in the proposed community or risk to third parties or to public safety that may result from such placement.

(c) Failure to comply. A judicial officer imposing a program of community-based electronic monitoring on a defendant as a condition of his or her release shall, in accordance with subsection 7554(c) of this title, issue an appropriate order and inform the defendant of any penalties applicable to violations of the imposed conditions, and advise the defendant that a warrant for his or her arrest may be issued immediately upon any such violation.

## Sec. 4. REPEAL

13 V.S.A. § 7554d (Windham County Electronic Monitoring Program) is repealed.

Sec. 5. 28 V.S.A. § 808b is amended to read:

§ 808b. HOME CONFINEMENT FURLOUGH

(a) An offender may be sentenced to serve a term of imprisonment, but placed by a court on home confinement furlough that restricts the defendant to a preapproved place of residence continuously, except for authorized absences. Home confinement furlough shall be enforced by appropriate means of supervision, including electronic monitoring and other conditions such as limitations on alcohol, visitors, and access to firearms imposed by the ~~Court~~ court or the Department, or both.

(b) The Department, in its own discretion, may place on home confinement furlough an offender who has not yet served the minimum term of the sentence for an eligible misdemeanor as defined in section 808d of this title if the Department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism.

~~(c) A home confinement furlough shall not exceed a total of 180 days and shall require the defendant:~~

~~(1) to remain at a preapproved residence at all times except for scheduled and preapproved absences for work, school, treatment, attorney appointments, court appearances, and other obligations as the Court may order; or~~

~~(2) to remain at a preapproved residence 24 hours a day on lock-down status except for medical appointments and court appearances.~~

~~(d)~~ In determining whether a home confinement furlough sentence is appropriate and whether a place of residence is suitable for such a sentence, all of the following shall be considered:

(1) The nature of the offense with which the defendant was charged and the nature of the offense of which the defendant was convicted.

(2) The defendant's criminal history record, history of violence, medical and mental health needs, history of supervision, and risk of flight.

(3) Any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

(d)(1) A home confinement furlough shall not exceed a total of 180 days and shall require the defendant:



(A) to remain at a preapproved residence at all times except for preapproved absences for work, school, treatment, attorney appointments, court appearances, and other obligations as the court may order; or

(B) to remain at a preapproved residence 24 hours a day on lock-down status except for medical appointments and court appearances.

(2) In cases involving offenders convicted of a listed crime, the defendant shall remain at a preapproved residence at all times except for preapproved absences for work, school, treatment, attorney appointments, court appearances, and other obligations as the court or Department may authorize. The day the absences are approved, the court or the Department shall provide a record to the prosecutor's office documenting the date, time, location, and purpose of the authorized absences. The authorized absences may commence no earlier than 24 hours following notification to the prosecutor's office. The Department may reschedule authorized absences only after providing 72 hours' advance notice to the prosecutor's office. Only medical emergencies are exempted from the notification requirements of this subdivision.

(e) [Repealed.]

#### Sec. 6. WINDHAM COUNTY SHERIFF'S OFFICE ELECTRONIC MONITORING PROGRAM AGREEMENTS; STATEWIDE COMMUNITY-BASED ELECTRONIC MONITORING

(a) The Windham County Sheriff's Office (WCSO), tasked with piloting an electronic monitoring program from July 1, 2014 through June 30, 2016 in accordance with 2014 Act No. 179, Sec. E.339.1, is authorized to enter into agreements with any Vermont sheriff's office that wishes to participate in offering community-based electronic monitoring in accordance with 13 V.S.A. §§ 7554b and 7554e. As a part of the agreements, the WCSO shall provide and the sheriff's offices shall abide by the policies and procedures the WCSO establishes for providing electronic monitoring under 13 V.S.A. §§ 7554b and 7554e.

(b) The electronic monitoring program for pretrial detention as set forth in 13 V.S.A. §§ 7554b and 7554e shall be utilized as a tool for monitoring and supervising detainees who would otherwise be housed in a correctional facility. The goals of expanding the program statewide are to save valuable bed space for detainees who should be lodged in a correctional facility, reduce out-of-state prison placements, reduce recidivism, improve public safety and victim notification, reduce transportation costs, increase detainee access to services, and reduce case resolution time.

#### Sec. 7. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except for this section and Sec. 6, which shall take effect on passage.

(Committee vote: 5-0-0)

## NOTICE CALENDAR

### Second Reading

#### Favorable

#### S. 252.

An act relating to the sale of lottery products.

**Reported favorably by Senator Cummings for the Committee on Economic Development, Housing & General Affairs.**

(Committee vote: 5-0-0)

#### Favorable with Recommendation of Amendment

#### S. 116.

An act relating to rights of offenders in the custody of the Department of Corrections.

**Reported favorably with recommendation of amendment by Senator Flory for the Committee on Institutions.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 857 is added to read:

#### § 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL REQUIREMENTS

(a) Except in emergency circumstances as described in subsection (b) of this section, before an inmate is placed in administrative segregation, regardless of whether that inmate has been designated as having a serious functional impairment under section 906 of this title, the inmate is entitled to a hearing pursuant to subsection 852(b) of this title.

(b) In the event of an emergency situation and at the discretion of the Commissioner, an inmate may be placed in administrative segregation prior to receiving a hearing as described in subsection 852(b) of this title.

Sec. 2. 28 V.S.A. § 204 is amended to read:

#### § 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

\* \* \*

(d)(1) ~~Any~~ Except as provided in subdivision (2), any presentence report, pre-parole report, or supervision history prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is privileged and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board, ~~except that:~~

~~(2)(A) the~~ The court or Board may in its discretion shall permit the inspection of the report, ~~or parts thereof~~ redacted of information that may compromise the safety or confidentiality of any person, by the State's Attorney, and by the defendant or inmate, or his or her attorney, ~~or; and~~

(B) the court or Board may in its discretion permit the inspection of the report or parts thereof by other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful.

(3) Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

\* \* \*

Sec. 3. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the Commissioner. Each supervising officer is charged with the following powers and responsibilities:

\* \* \*

(10) To establish and maintain, in accordance with such rules and regulations as are established by the Commissioner, a central file at the facility containing an individual file for each inmate. Except as otherwise may be indicated by the rules and regulations of the Department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown ~~and shall not be accessible to inmates at the facility.~~ Information that may compromise the safety or confidentiality of any person shall be redacted from a file prior to inspection by an inmate. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a ~~state~~ State

or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Sec. 4. 28 V.S.A. § 602 is added to read:

§ 602. RIGHT OF AN INDIVIDUAL TO ACCESS RECORDS

(a) At the request of any person in the custody or under the supervision of the Department, the Department shall provide records maintained by the Department concerning that person if that person is:

(1) a party in a case in any division of the Superior Court in which the Department is also a party; or

(2) a defendant in a hearing before the Parole Board in which revocation of parole is a possible outcome.

(b) Nothing in this title concerning the confidentiality of the Department's records shall be construed as limiting a person's right to access records about himself or herself, except as specified in subsections (c) and (d) of this section.

(c) The Department shall redact any information compromising the safety or confidentiality of any person prior to providing the record to a person under this section.

(d) The Department may seek a court order limiting disclosure of records. The order may be granted only if the court finds clear and convincing evidence that disclosure of records would create a substantial and identifiable risk to public safety.

(e) As used in this section, "records" means records stored in any form, physical or electronic.

Sec. 5. 13 V.S.A. § 5233 is amended to read:

§ 5233. EXTENT OF SERVICES

(a) A needy person who is entitled to be represented by an attorney under section 5231 of this title is entitled:

\* \* \*

(3) To be represented in any other postconviction proceeding which may have more than a minimal effect on the length or conditions of detention where the attorney considers:

(A) the claims, defenses, and other legal contentions to be warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(B) the allegations and other factual contentions to have evidentiary support, or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

\* \* \*

#### Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

#### **S. 241.**

An act relating to personal possession and cultivation of cannabis and the regulation of commercial cannabis establishments.

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Findings \* \* \*

#### Sec. 1. LEGISLATIVE FINDINGS AND INTENT

The General Assembly finds the following:

(1) According to a 2014 study commissioned by the administration and conducted by the RAND Corporation, marijuana is commonly used in Vermont with an estimated 80,000 residents having used marijuana in the last month.

(2) For over 75 years, Vermont has debated the issue of marijuana regulation and amended its marijuana laws numerous times in an effort to protect public health and safety. Criminal penalties for possession rose in the 1940s and 50s to include harsh mandatory minimums, dropped in the 1960s and 70s, rose again in the 1980s and 90s, and dropped again in the 2000s. A study published in the American Journal of Public Health found that no evidence supports the claim that criminalization reduces marijuana use.

(3) Vermont seeks to take a new comprehensive approach to marijuana use and abuse that incorporates prevention, education, regulation, treatment, and law enforcement which results in a net reduction in public harm and an overall improvement in public safety. Responsible use of marijuana by adults 21 years of age or older should be treated the same as responsible use of alcohol, the abuse of either treated as a public health matter, and irresponsible use of either that causes harm to others sanctioned with penalties.

(4) Policymakers recognize legitimate federal concerns about marijuana reform and seek through this legislation to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(5) In his 2016 State of the State address, the Governor identified five essential elements to a well-regulated framework for marijuana legalization, which the General Assembly believes have been addressed in this Act:

(A) Keeping marijuana and other drugs out of the hands of youth.

(B) Creating a regulated marijuana market that shifts demand away from the illegal market and the inherent public health and safety risks associated with the illegal market.

(C) Using revenue from commercial marijuana sales to expand drug prevention and treatment programs.

(D) Strengthening law enforcement's capacity to improve the response to impaired drivers under the influence of marijuana or other drugs.

(E) Prohibiting the commercial production and sale of marijuana concentrates and edible marijuana products until other states that are currently permitting such products successfully develop consumer protections that are shown to prevent access by youth and potential misuse by adults.

(6) Revenue generated by this act shall be allotted in the following formula:

(A) 25 percent to prevention of substance abuse;

(B) 25 percent to treatment of substance abuse;

(C) 25 percent to criminal justice efforts to combat the illegal drug trade and impaired driving; and

(D) 25 percent to the General Fund for the implementation, administration, and enforcement of this act with any remaining funds allocated equally among subdivisions (A)–(C) of this subdivision (6).

\* \* \* Prevention \* \* \*

## Sec. 2. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a) The Department of Health shall develop and administer an education and prevention program to address evidence that early and persistent use of marijuana may be detrimental to the health and well-being of youth.

(b) To the extent funding permits, the Department shall establish a Substance Abuse Youth Prevention and Education Program. The Program shall be evidence-based and shall include:

(1) Community- and school-based youth and family focused prevention initiatives that strive to:

(A) expand the number of school-based grants for substance abuse services to enable each Supervisory Union to develop a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(B) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youth in schools and other settings; and

(C) expand family education programs.

(2) An information and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(3) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(4) Expansion of the use of SBIRT among the State’s pediatric practices and school-based health centers.

(c) On or before March 15, 2017, the Department shall adopt rules to implement this section.

## Secs. 3–5. RESERVED

\* \* \* Legal Possession; Civil and Criminal Penalties \* \* \*

Sec. 6. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all civil penalties for possession of one ounce or less of marijuana for a person who is 21 years of age or older while retaining the current criminal penalties for possession of larger amounts of marijuana and criminal penalties for unauthorized dispensing or sale of marijuana. This act also retains the current civil and criminal penalties for possession of marijuana by a person under 21 years of age, which are the same as possession of alcohol by a person under 21 years of age.

Sec. 7. 18 V.S.A. § 4201(15) is amended to read:

~~(15)(A) “Marijuana” means any plant material of the genus *Cannabis* or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant *Cannabis sativa* L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:~~

~~(i) the seeds of the plant;~~

~~(ii) the resin extracted from any part of the plant; and~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.~~

~~(B) “Marijuana” does not include:~~

~~(i) the mature stalks of the plant and fiber produced from the stalks;~~

~~(ii) oil or cake made from the seeds of the plant;~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or~~

~~(iv) the sterilized seed of the plant that is incapable of germination.~~

Sec. 8. 18 V.S.A. § 4230(b) is amended to read:

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling marijuana or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.



(2) A person knowingly and unlawfully selling or dispensing ~~one-half ounce or more~~ than one ounce of marijuana or ~~2.5~~ five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of marijuana or 2.8 ounces of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

Sec. 9. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER; ~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

- ~~(1) not more than \$200.00 for a first offense;~~
- ~~(2) not more than \$300.00 for a second offense;~~
- ~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind. A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.~~

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

- (i) not more than \$100.00 for a first offense;
- (ii) not more than \$200.00 for a second offense; and
- (iii) not more than \$500.00 for a third or subsequent offense.

~~(e)(1)(b) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing~~

~~laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.:~~

(1) permit a person to cultivate marijuana without a license from the Department of Public Safety;

(2) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(3) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(4) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(5) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(6) require an employer to accommodate the possession or use of marijuana or being under the influence of marijuana in a place of employment;

(7) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(8) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.~~

~~(e)(c)(1) A law enforcement officer is authorized to detain a person if:~~

(A) the officer has reasonable grounds to believe the person has violated subsection (b) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(d)~~ Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

Sec. 10. 18 V.S.A. § 4230e is added to read:

§ 4230e. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE

(a) No person shall:

(1) sell or furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c)(1) Except as provided in subdivision (2) of this subsection (c) and subsection (d) of this section, a person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(2) A person who violates subdivision (a)(1) of this section by selling or furnishing marijuana to a person under 18 years of age shall be imprisoned not more than four years or fined not more than \$4,000.00, or both.

(d) An employee of a marijuana establishment licensed pursuant to chapter 87 of this title, who, in the course of employment, violates subdivision (a)(1) of this section during a compliance check conducted by a law enforcement officer shall be:

(1) assessed a civil penalty of not more than \$100.00 for the first violation and a civil penalty of not less than \$100.00 nor more than \$500.00 for a second violation that occurs more than one year after the first violation; and

(2) subject to the criminal penalties provided in subsection (c) of this section for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(e) An employee alleged to have committed a violation of subsection (d) of this section may plead as an affirmative defense that:

(1) the purchaser exhibited and the employee carefully viewed photographic identification that indicated the purchaser to be 21 years of age or older;

(2) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase marijuana.

(f) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(g) This section shall not apply to:

(1) A person under 21 years of age who sells or furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary registered pursuant to chapter 86 of this title.

Sec. 11. 18 V.S.A. § 4230f is added to read:

§ 4230f. CHEMICAL EXTRACTION PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using a solvent such as butane, hexane, isopropyl alcohol, ethanol, or carbon dioxide unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title. This section does not preclude extraction by vegetable glycerin.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

\* \* \* Commercial Marijuana Regulation \* \* \*

Sec. 12. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. MARIJUANA ESTABLISHMENTS

Subchapter 1. General Provisions

§ 4501. DEFINITIONS

As used in this chapter:

(1) “Applicant” means:

(A) an individual who has a ten percent or greater ownership interest in a business entity that seeks to operate a marijuana establishment pursuant to this chapter;

(B) a director, officer, or manager of business entity that seeks to operate a marijuana establishment pursuant to this chapter;

(C) if the business entity that seeks to operate a marijuana establishment pursuant to this chapter is a subsidiary of a parent entity, an individual who has a ten percent or greater ownership interest in the parent entity; or

(D) a principal officer or board member of a dispensary.

(2) “Child care facility” means a child care facility or family day care home licensed or registered under 33 V.S.A. chapter 35.

(3) “Commissioner” means the Commissioner of Public Safety.

(4) “Department” means the Department of Public Safety.

(5) “Dispensary” means a person registered under section 4474e of this title that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief.

(6) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(7) “Financier” means any person other than a banking institution that has made or will make an investment in the licensed business. A financier can be a person that provides money as a gift, loans money to the applicant and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

(8) “Handbill” means a flyer, leaflet or sheet that advertises marijuana or a marijuana establishment.

(9) “Marijuana” shall have the same meaning as provided in section 4201 of this title.

(10) “Marijuana cultivator” or “cultivator” means a person registered with the Department to engage in commercial cultivation of marijuana in accordance with this chapter.

(11) “Marijuana establishment” means a marijuana cultivator, retailer, or testing laboratory licensed by the Department to engage in commercial marijuana activity in accordance with this chapter.

(12) “Marijuana retailer” or “retailer” means a person licensed by the Department to sell marijuana to consumers for off-site consumption in accordance with this chapter.

(13) “Marijuana testing laboratory” or “testing laboratory” means a person licensed by the Department to test marijuana for cultivators and retailers in accordance with this chapter.

(14) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency or subdivision of the State; and any partnership, unincorporated association or other legal entity.

(15) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(16) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.

(17) “Resident” means a person who is domiciled in Vermont. For purposes of licensing under this chapter, the process for determining domicile shall be the same as that required by rules adopted by the Department of Taxes related to determining domicile for the purpose of the interpretation and administration of 32 V.S.A. § 5401(14).

(18) “School” means a public school, independent school, or facility that provides early childhood education as those terms are defined in 16 V.S.A. § 11.

§ 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Marijuana possessed unlawfully in violation of this chapter may be seized by law enforcement and is subject to forfeiture.

§ 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter shall not apply to activities regulated by 7 V.S.A. chapter 34 (hemp) or chapter 86 (therapeutic use of cannabis) of this title.

§ 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED

This chapter shall not be construed to permit consumption of marijuana in a public place. Violations shall be punished in accordance with section 4230 of this title.

#### § 4505. REGULATION BY LOCAL GOVERNMENT

(a)(1) A marijuana establishment shall obtain a permit from a town, city, or incorporated village prior to beginning operations within the municipality.

(2) A municipality that hosts a marijuana establishment may establish a board of marijuana control commissioners, who shall be the members of the municipal legislative body. The board shall administer the municipal permits for the marijuana establishments within the municipality.

(b) Nothing in this chapter shall be construed to prevent a town, city, or incorporated village from regulating marijuana establishments through local ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set forth in 24 V.S.A. § 4414.

(c)(1) A town, city, or incorporated village, by majority vote of those present and voting at annual or special meeting warned for the purpose, may prohibit the operation of a marijuana establishment within the municipality. The provisions of this subdivision shall not apply to a marijuana establishment that is operating within the municipality at the time of the vote.

(2) A vote to prohibit the operation of a marijuana establishment within the municipality shall remain in effect until rescinded by majority vote of those present and voting at an annual or special meeting warned for the purpose.

#### § 4506. YOUTH RESTRICTIONS

(a) A marijuana establishment shall not dispense or sell marijuana to a person under 21 years of age or employ a person under 21 years of age.

(b) A marijuana establishment shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) A marijuana establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where marijuana is located. This subsection shall not apply to a registered patient visiting his or her designated dispensary even if that dispensary is located in a building that is located on the same premises of a marijuana establishment.

#### § 4507. ADVERTISING

(a) Marijuana advertising shall not contain any statement or illustration that:

(1) is false or misleading;



- (2) promotes overconsumption;
- (3) represents that the use of marijuana has curative or therapeutic effects;
- (4) depicts a person under 21 years of age consuming marijuana; or
- (5) is designed to be appealing to children or persons under 21 years of age

(b) Outdoor marijuana advertising shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) Handbills shall not be posted or distributed.

(d) In accordance with section 4512 of this chapter, the Department shall adopt regulations on marijuana establishment advertising that reflect the policies of subsection (a) of this section and place restrictions on the time, place, and manner, but not content, of the advertising.

(e) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana.

## Subchapter 2. Department of Public Safety

### § 4511. AUTHORITY

For the purpose of regulating the cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana in accordance with this chapter, the Department shall have the following authority and duties:

- (1) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;
- (2) administration of a program for the licensure of marijuana establishments, which shall include compliance and enforcement; and
- (3) submission of an annual budget to the Governor.

### § 4512. RULEMAKING

The Department shall adopt rules to implement this chapter on or before March 15, 2017, in accordance with subdivisions (1)–(3) of this section.

- (1) Rules concerning any marijuana establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check for all principals and financiers of the proposed marijuana establishment;

(C) oversight requirements;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements, including requiring that each marijuana establishment create an identification badge for each employee;

(G) security requirements, including lighting, physical security, video, and alarm requirements;

(H) restrictions on advertising, marketing, and signage;

(I) health and safety requirements;

(J) regulation of additives to marijuana, including those that are toxic or designed to make the product more addictive, more appealing to children, or to mislead consumers;

(K) procedures and standards for testing marijuana for contaminants and potency;

(L) regulation of the storage and transportation of marijuana;

(M) sanitary requirements;

(N) pricing guidelines with a goal of ensuring marijuana is sufficiently affordable to undercut the illegal market;

(O) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the marijuana establishment's license; and

(P) procedures for suspension and revocation of a license.

(2) Rules concerning cultivators shall include:

(A) seed to sale tracking of marijuana plants;

(B) restrictions on the use of pesticides that are injurious to human health;

(C) standards for both the indoor and outdoor cultivation of marijuana, including environmental protection requirements;

(D) labeling requirements for products sold to retailers; and

(E) regulation of visits to the establishments, including the number of visitors allowed at any one time and recordkeeping concerning visitors.

(3) Rules concerning retailers shall include:

(A) labeling requirements for products sold to customers;

(B) requirements for proper verification of age and residency of customers;

(C) restrictions that marijuana shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the marijuana; and

(D) regulation of visits to the establishments, including the number of customers allowed at any one time and recordkeeping concerning visitors.

(4) Rules concerning testing laboratories shall include:

(A) procedures for destruction of all samples;

(B) quality assurance and control;

(C) requirements of testing operating manual; and

(D) requirements for chain of custody recordkeeping.

#### § 4513. IMPLEMENTATION

(a)(1) On or before March 15, 2017, the Department shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any period of time at its discretion. On or before July 1, 2018, any restrictions on the timing of applications shall end and the Department shall begin an ongoing, open application process.

(2) On or before July 15, 2017, the Department shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before July 15, 2017, the Department shall begin accepting applications for retail licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any period of time at its discretion. On or before July 1, 2018, any restrictions on the timing of applications shall end and the Department shall begin an ongoing, open application process.

(2) On or before October 15, 2017, the Department shall begin issuing retailer licenses to qualified applicants. A license shall not permit a licensee to open the store to the public or sell marijuana to the public prior to January 1, 2018.

(c)(1) Prior to July 1, 2018, provided applicants meet the requirements of this chapter, the Department shall issue:

(A) up to 15 cultivator licenses that permit a cultivation space of not more than 5,000 square feet;

(B) up to 10 cultivator licenses that permit a cultivation space of 5,001–10,000 square feet;

(C) up to five cultivator licenses that permit a cultivation space of 10,001–20,000 square feet.

(2) On or after July 1, 2018, the limitations in subdivision (1) of this subsection shall not apply and the Department shall use its discretion to issue cultivator licenses in a number and size that provides sufficient amounts of marijuana to licensed retailers. A cultivator licensed under the limitations of subdivision (1) of this subsection may apply to the Department to modify its license to expand its cultivation space.

#### § 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Department shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to section 4512 of this title. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

(b) The Department shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to section 4512 of this title.

#### Subchapter 3. Licenses

#### § 4521. GENERAL PROVISIONS

(a) Except as otherwise permitted by this chapter, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of marijuana without obtaining a license from the Department.

(b) All licenses shall expire at midnight, April 30, of each year beginning no earlier than 10 months after the original license was issued to the marijuana establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Department and shall be accompanied by the fees provided for in section 4526 of this section.

(d)(1) Except as provided in subdivision (2) of this subsection (d), a person may obtain only one license, either a cultivator license, a retailer license, or a testing laboratory license under this chapter.

(2) A dispensary or a subsidiary of a dispensary may obtain one of each type of license under this chapter, provided that a dispensary or its subsidiary obtain no more than one cultivator license, one retailer license, and one testing laboratory license total.

(e) Each license shall permit only one location of the establishment.

(f) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Department. If the dispensary and retail establishment are located on the same premises, the dispensary and retail establishment shall provide separate entrances and common areas designed to serve patients and caregivers and customers.

(g) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Department. Failure to provide proof of insurance to the Department, as required, may result in revocation of the license.

(h) This subchapter shall not apply to possession regulated by section 4230a of this title.

#### § 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) To be eligible for a marijuana establishment license, an applicant shall:

(1) be 21 years of age or older;

(2) be a resident of this State for at least two years immediately prior to applying for a license; and

(3) consent to the release of his or her criminal and administrative history records.

(b) A financier of a marijuana establishment shall be a resident of this State for at least two years immediately prior to filing of the application for a license for which the person is serving as a financier.

(c) As part of the application process, each applicant shall submit, in a format proscribed by the Department, an operating plan. The plan shall

include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed. The plan shall also include the following:

(1) For a cultivator license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) transportation of product;

(E) destruction of waste product;

(F) description of growing operation, including growing media, size of grow space allocated for plant production, space allowed for any other business activity, description of all equipment to be used in the cultivation process, and a list of soil amendments, fertilizers, or other crop production aids, or pesticides, utilized in the production process;

(G) testing procedures and protocols;

(H) description of packaging and labeling of products transported to retailers; and

(I) any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) For a retailer license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product;

(E) description of packaging and labeling of products sold to customers;

(F) the products to be sold and how they will be displayed to customers; and

(G) any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(3) For a testing laboratory license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product; and

(E) the types of testing to be offered.

(d) For each applicant and financier, the Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the person's operation of a business in this State or any other jurisdiction.

(e) When considering applications for a marijuana establishment license, the Department shall:

(1) give priority to a qualified applicant that is a dispensary or subsidiary of a dispensary;

(2) strive for geographic distribution of marijuana establishments based on population.

#### § 4523. EDUCATION

(a) An applicant for a marijuana establishment license shall meet with a Department designee for the purpose of reviewing Vermont laws and rules pertaining to the possession, purchase, storage, and sale of marijuana prior to receiving a license.

(b) A licensee shall complete an enforcement seminar every three years conducted by the Department. A license shall not be renewed unless the records of the Department show that the licensee has complied with the terms of this subsection.

(c) A licensee shall ensure that each employee involved in the sale of marijuana completes a training program approved by the Department prior to selling marijuana and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Department. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of no less than one day of the license issued under this chapter.

#### § 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) The Department shall issue each employee an identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the marijuana establishment and shall not be passed on to an employee. A person shall not

work as an employee in until that person has received an identification card issued under this section. Each card shall contain the following:

(1) the name, address, and date of birth of the person;

(2) the legal name of the marijuana establishment with which the person is affiliated;

(3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for an identification card, the Department shall obtain the person's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation. Each person shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department obtains a criminal history record, the Department shall promptly provide a copy of the record to the person and the marijuana establishment. The Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Department.

(d) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.

(e) The Department shall not issue an identification card to any person who has been convicted of a drug-related offense or a violent felony or who has a pending charge for such an offense. As used in this subchapter, "violent felony" means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(f) The Department shall adopt rules for the issuance of an identification card and shall set forth standards for determining whether a person should be denied a registry identification card because his or her criminal history record indicates that the person's association with a marijuana establishment would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in subsection (e) of this section shall not automatically disqualify a person for a



registry identification card. A marijuana establishment may deny a person the opportunity to serve as an employee based on his or her criminal history record. A person who is denied an identification card may appeal the Department's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) An identification card shall expire one year after its issuance or upon the expiration of the marijuana establishment's license, whichever occurs first.

#### § 4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed retailer.

(b) Cultivation of marijuana shall occur only in an enclosed, locked facility.

(c) An applicant shall designate on their operating plan the size of the premises and the amount of actual square footage that will be dedicated to plant canopy.

(d) Representative samples of each lot or batch of marijuana intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Department.

(e) Each cultivator shall create packaging for its marijuana.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A "produced on" date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, "Consumption of marijuana impairs your ability to drive a car and operate machinery," "Keep away from children," and "Possession of marijuana is illegal under federal law."

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

§ 4526. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) transport, possess, and sell marijuana to the public for consumption off the registered premises; and

(2) purchase marijuana from a licensed cultivator.

(b)(1) In a single transaction, a retailer may provide:

(A) one ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled in Vermont; or

(B) one-quarter of an ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled outside Vermont.

(2) A retailer shall not knowingly and willfully sell an amount of marijuana to a person that causes the person to exceed the possession limit.

(c) A retailer may only sell “useable marijuana” which means the dried flowers of marijuana and does not include the seeds, stalks, leaves, and roots of the plant.

(d)(1) Packaging shall include:

(A) The name and registration number of the retailer.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(e) A retailer shall display a safety information flyer developed or approved by the Board and supplied to the retailer free of charge. The flyer shall contain information concerning the methods for administering marijuana, the potential dangers of marijuana use, the symptoms of problematic usage, and how to receive help for marijuana abuse.

(f) Internet sales and delivery of marijuana to customers are prohibited.

#### § 4527. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana samples obtained from a licensed marijuana establishment.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E.coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all marijuana samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

#### § 4528. FEES. RESERVED

#### § 4529. MARIJUANA REGULATION FUND

(a) The Marijuana Regulation Fund is hereby created. The Fund shall be maintained by the Department.

(b) The Fund shall be composed of all application fees, license fees, renewal fees, and civil penalties collected by the Department pursuant to this chapter.

(c) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund.

(d) All monies within the Fund shall be allocated to the Department solely for the purposes of implementing, administering, and enforcing this chapter, including the costs incurred by the Department for its administrative expenses.

#### Subchapter 4. Taxes on Marijuana

##### § 4541. MARIJUANA TAX FUND

(a) The Marijuana Tax Fund is hereby created. The Fund shall be administered by the Commissioner of Taxes and comprise all taxes collected by the Commissioner pursuant to this chapter.

(b) By the 30th day after the end of each fiscal quarter, the monies deposited in the Fund during the prior fiscal quarter shall be allocated by the Commissioner of Finance and Management as follows:

(1) 25 percent to prevention of substance abuse;

(2) 25 percent to treatment of substance abuse;

(3) 25 percent to criminal justice efforts to combat the illegal drug trade and impaired driving; and

(4) 25 percent to the General Fund for the implementation, administration, and enforcement of this act with any remaining funds allocated equally among subdivisions (1)–(3) of this subsection.

##### §§ 4542–4545. RESERVED

#### Subchapter 5. Marijuana Program Review Commission

##### § 4546. PURPOSE; MEMBERS

(a) Creation. There is created a temporary Marijuana Program Review Commission for the purpose of facilitating efficient and lawful implementation of this act and examination of issues important to the future of marijuana regulation in Vermont.

(b) Membership. The Commission shall be composed of the following members:

(1) two current members of the House of Representatives, not all from the same political party, appointed by the Speaker of the House;

- (2) one member of the public appointed by the Speaker of the House;
  - (3) two current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees;
  - (4) one member of the public appointed by the Committee on Committees;
  - (5) two members of the public appointed by the Governor; and
  - (6) the Attorney General or his or her designee.
- (c) Legislative members shall serve only while in office.

§ 4547. POWERS; DUTIES

(a) The Commission shall:

- (1) collect information about the implementation, operation, and effect of this act from members of the public, State agencies, and private and public sector businesses and organizations;
- (2) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;
- (3) consider the issue of personal cultivation of a small number of marijuana plants and whether Vermont could permit home grow in a manner that would not create diversion or enforcement issues that hinder efforts to divert the marijuana economy from the illegal to the regulated market;
- (4) examine the issue of marijuana concentrates and edible marijuana products and whether Vermont safely can allow and regulate their manufacture and sale and, if so, how;
- (5) keep updated on the latest information in Vermont and other jurisdictions regarding the prevention and detection of impaired driving as it relates to marijuana;
- (6) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;
- (7) examine whether Vermont should allow additional types of marijuana establishment licenses, including a processor license and product manufacturer license; and
- (8) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries.

(9) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Department and policymakers with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;

(10) report any recommendations to the General Assembly or the Governor, or both, as needed.

(b) On or before October 15, 2018, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action.

#### § 4548. ADMINISTRATION

(a) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

##### (b) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Commission to occur on or before August 1, 2016.

(2) The Commission shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Commission shall cease meeting regularly after the issuance of its final report, but members shall be available to meet with Administration officials and the General Assembly until July 1, 2019 at which time the Commission shall cease to exist.

##### (c) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary.

(2) Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

#### Sec. 13. OFFICE OF LEGISLATIVE COUNCIL

The sum of \$60,000.00 is appropriated in fiscal year 2017 to the Office of Legislative Council for the purpose of providing staffing to the Marijuana Program Review Commission which may include hiring a consultant to

accomplish appropriate staffing. The Director of the Office of Legislative Council shall obtain approval from the Legislative Council for the staffing plan.

\* \* \* Medical Marijuana Dispensaries \* \* \*

Sec. 14. LEGISLATIVE INTENT; DISPENSARIES

The continued viability of medical marijuana dispensaries in a regulated retail market is critical to ensure appropriate services and products to Vermonters with qualifying debilitating medical conditions.

Sec. 15. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

\* \* \*

(6)(A) “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81 ~~who has a special license endorsement authorizing the individual to prescribe, dispense, and administer prescription medicines to the extent that a diagnosis provided by a naturopath under this chapter is within the scope of his or her practice,~~ an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) ~~Except for naturopaths, this~~ This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

\* \* \*

(11) “Registered caregiver” means a person who is ~~at least 21 years old who has never been convicted of a drug-related crime of age or older,~~ has met eligibility requirements as determined by the Department in accordance with this chapter, and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

\* \* \*

(17) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the dispensary, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the dispensary when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of another dispensary, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the dispensary.

Sec. 16. 18 V.S.A. § 4473 is amended to read:

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

\* \* \*

(b) The Department of Public Safety shall review applications to become a registered patient using the following procedures:

\* \* \*

~~(5)(A) A Review Board is established. The Medical Practice Board shall appoint three physicians licensed in Vermont to constitute the Review Board. If an application under subdivision (1) of this subsection is denied, within seven days the patient may appeal the denial to the Board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the Board. The Review Board shall comprise three members:~~

(i) a physician appointed by the Medical Practice Board;

(ii) a naturopathic physician appointed by the Office of Professional Regulation; and

(iii) an advanced practice registered nurse appointed by the Office of Professional Regulation.

(B) The Board shall meet periodically to review studies, data, and any other information relevant to the use of marijuana for symptom relief. The Board may make recommendations to the General Assembly for adjustments and changes to this chapter.

(C) Members of the Board shall serve for three-year terms, beginning February 1 of the year in which the appointment is made, except that the first



members appointed shall serve as follows: one for a term of two years, one for a term of three years, and one for a term of four years. Members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

(D) If an application under subdivision (1) of this subsection (b) is denied, within seven days the patient may appeal the denial to the Board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the Board.

Sec. 17. 18 V.S.A. § 4474 is amended to read:

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS  
AND PROCEDURES

\* \* \*

(d) A registered caregiver of a patient who is under 18 years of age and suffers from seizures may cultivate hemp upon notifying the Department and shall not be required to comply with the provisions of 6 V.S.A. chapter 34.

Sec. 18. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

(A) Marijuana-infused products shall include tinctures, oils, solvents, and edible or potable goods. Only the portion of any marijuana-infused product that is attributable to marijuana shall count toward the possession limits of the dispensary and the patient. The Department of Public Safety shall establish by rule the appropriate method to establish the weight of marijuana that is attributable to marijuana-infused products. A dispensary shall dispense marijuana-infused products in child-resistant packaging as defined in 7 V.S.A. § 1012.

\* \* \*

(2)(A) Acquire marijuana seeds or parts of the marijuana plant capable of regeneration from or dispense them to registered patients or their caregivers or acquire them from another registered Vermont dispensary, provided that records are kept concerning the amount and the recipient.

(B) Acquire, purchase, or borrow marijuana, marijuana-infused products, or services from another registered Vermont dispensary or give, sell, or lend marijuana, marijuana-infused products, or services to another registered Vermont dispensary, provided that records are kept concerning the product, the amount, and the recipient. Each Vermont dispensary is required to adhere to all possession limits pertaining to cultivation as determined by the number of patients designating that dispensary and may not transfer eligibility to another dispensary.

(3)(A) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

(B) Notwithstanding subdivision (A) of this subdivision, if a dispensary is designated by a registered patient under 18 years of age who qualifies for the registry because of seizures, the dispensary may apply to the Department for a waiver of the limits in subdivision (A) of this subdivision (3) if additional capacity is necessary to develop and provide an adequate supply of a product for symptom relief for the patient. The Department shall have discretion whether to grant a waiver and limit the possession amounts in excess of subdivision (A) of this subdivision (3) in accordance with rules adopted pursuant to section 4474d of this title.

(C) The plant limitations in subdivision (3)(A) of this subsection (a) shall not be construed to restrict a dispensary's cultivation of marijuana pursuant to a cultivation license issued under chapter 87 of this title.

(4) With approval from the Department, transport and transfer marijuana to a Vermont academic institution for the purpose of research.

\* \* \*

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility ~~which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of~~

~~the dispensary who have valid registry identification cards.~~ The Department of Public Safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

\* \* \*

(h) A dispensary shall include a label on the packaging of all marijuana that is dispensed. The label shall:

(1) identify the particular strain of marijuana ~~contained therein.~~ Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and shall reflect properties of the plant. ~~The label also shall:~~

(2) identify the amount of tetrahydrocannabinol in each single dose marijuana-infused edible or potable product; and

(3) contain a statement to the effect that the State of Vermont does not attest to the medicinal value of cannabis.

\* \* \*

Sec. 19. 18 V.S.A. § 4474g is amended to read:

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD;  
CRIMINAL BACKGROUND CHECK

(a) Except as provided in subsection (b) of this section, the Department of Public Safety shall issue each principal officer, Board member, and employee of a dispensary a registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the dispensary and the cost shall not be passed on to a principal officer, Board member, or employee. A person shall not serve as principal officer, Board member, or employee of a dispensary until that person has received a registry identification card issued under this section. Each card shall specify whether the cardholder is a principal officer, Board member, or employee of a dispensary and shall contain the following:

- (1) the name, address, and date of birth of the person;
- (2) the legal name of the dispensary with which the person is affiliated;
- (3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the registry identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for a registry identification card, the Department of Public Safety shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center. A fingerprint-supported, out-of-state criminal history record and a criminal history record from the Federal Bureau of Investigation shall be required only every three years for renewal of a card for a dispensary principal or Board member.

\* \* \*

Sec. 20. 18 V.S.A. § 4474h is amended to read:

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary. A registered patient who wishes to change his or her dispensary shall notify the ~~department of public safety~~ Department of Public Safety in writing on a form issued by the ~~department~~ Department and shall submit with the form a fee of \$25.00. The ~~department~~ Department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the ~~department~~ Department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any ~~90-day~~ 30-day period.

(b) The ~~department of public safety~~ Department of Public Safety shall track the number of registered patients who have designated each dispensary. The ~~department~~ Department shall issue a monthly written statement to the dispensary identifying the number of registered patients who have designated that dispensary and the registry identification numbers of each patient and each patient's designated caregiver, if any.

(c) In addition to the monthly reports, the ~~department of public safety~~ Department of Public Safety shall provide written notice to a dispensary whenever any of the following events occurs:

(1) ~~A~~ a qualifying patient designates the dispensary to serve his or her needs under this subchapter;

(2) ~~An~~ an existing registered patient revokes the designation of the dispensary because he or she has designated a different dispensary; ~~or~~

(3) ~~A~~ a registered patient who has designated the dispensary loses his or her status as a registered patient under this subchapter.

\* \* \* Impaired Driving \* \* \*

Sec. 21. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 22. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 23. VERMONT GOVERNOR’S HIGHWAY SAFETY PROGRAM

(a) Impaired driving, operating a motor vehicle while under the influence of alcohol or drugs, is a significant concern for the General Assembly. While Vermont has made a meaningful effort to educate the public about the dangers of drinking alcohol and driving, the public seems to be less aware of the inherent risks of driving while under the influence of drugs, whether it is marijuana, a validly prescribed medication, or other drugs. It is the intent of the General Assembly that the State reframe the issue of drunk driving as impaired driving in an effort to comprehensively address the risks of such behavior through prevention, education, and enforcement.

(b)(1) The Agency of Transportation, through its Vermont Governor’s Highway Safety Program, shall expand its public education and prevention campaign on drunk driving to impaired driving, which shall include drugged driving.

(2) The Agency shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15, 2017 regarding implementation of this section.

Sec. 24. COMMISSIONER OF PUBLIC SAFETY

The Commissioner of Public Safety shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15 each year regarding the following issues concerning impaired driving:

(1) the previous year's data in Vermont,

(2) the latest information regarding best practices on prevention and enforcement, and

(3) his or her recommendations for legislative action.

Sec. 25. DRUG RECOGNITION EXPERT TRAINING

(a) In fiscal year 2017, \$42,000.00 is appropriated from the General Fund to the Department of Public Safety, these funds provide drug recognition expert training to a minimum of ten sworn law enforcement officers statewide.

(b) The Department shall develop a process for approving funding for drug recognition expert training for law enforcement agencies in the State. In awarding funding, the Department shall consider the State's interest in achieving sufficient geographic distribution of drug recognition experts to provide adequate statewide coverage.

(c) The Department shall work collaboratively with the Agency of Transportation to ensure federal Governor's Highway Safety Program funds are applied where appropriate for the cost of this training.

Sec. 26. CREATION AND FUNDING OF NEW TROOPER POSITIONS

(a) Position creation. Within the Department of Public Safety, the following positions are created:

(1) effective July 1, 2016, nine classified trooper positions;

(2) effective July 1, 2017, eight classified trooper positions; and

(3) effective July 1, 2018, eight classified trooper positions.

(b) Position funding.

(1) In fiscal year 2017, \$1,500,000.00 is appropriated from the General Fund to the Department of Public Safety for the trooper positions, including required equipment.

(2) It is the intent of the General Assembly that funding be appropriated as needed to fund the new trooper positions created in fiscal years 2018 and 2019.

Sec. 27. DEPARTMENT OF PUBLIC SAFETY LABORATORY  
POSITIONS, EQUIPMENT, AND FUNDING

(a) Position creation. Within the Department of Public Safety, six classified positions are established, as follows:

- (1) two forensic chemists;
- (2) two program technicians; and
- (3) two administrative assistants.

(b) Position funding. In fiscal year 2107, \$612,000.00 is appropriated from the General Fund to the Department of Public Safety, of which \$362,000.00 shall fund the positions created in this section, and \$250,000.00 shall fund laboratory equipment.

\* \* \* Miscellaneous \* \* \*

Sec. 28. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

\* \* \*

(29) To prohibit or regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, the number, time, place, manner, or operation of a marijuana establishment, or any class of marijuana establishments, located in the municipality; provided, however, that amendments to such an ordinance shall not apply to restrict further a marijuana establishment in operation within the municipality at the time of the amendment. As used in this subdivision, "marijuana establishment" is as defined in 18 V.S.A. chapter 87.

Sec. 29. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

\* \* \*



(16) Marijuana establishments. A municipality may adopt bylaws for the purpose of regulating marijuana establishments as defined in 18 V.S.A. chapter 87.

Sec. 30. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

\* \* \*

(24) Violations of 18 V.S.A. §§ 4230a and 4230b, relating to possession public consumption of marijuana.

\* \* \* Effective Dates \* \* \*

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1, 2, and 12 shall take effect on passage.

(b) Secs. 7, 11, and 13 through 29 shall take effect on July 1, 2016.

(c) Secs. 6, 8 through 10, and 30 shall take effect on January 1, 2018.

And that after passage the title of the bill be amended to read “An act relating to the regulation of marijuana”

(Committee vote: 4-1-0)

**Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Finance.**

The Committee recommends that the bill be amended as recommended by the committee on Judiciary with the following amendments thereto:

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, and the Governor’s Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youth under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each Supervisory Union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youth in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youth who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2017, the Department shall adopt rules to implement the education and prevention program described in subsection (a) of this section and implement the program on or before September 15, 2017.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youth in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youth shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

Second: By adding a Sec. 10a to read as follows:

Sec. 10a. 18 V.S.A. § 4230g is added to read:

§ 4230g. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in

whole or in part such impairment by selling or furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who sold or furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant. Responsible actions may include a marijuana establishment's instruction to employees as to laws governing the sale of marijuana to adults 21 years of age or older and procedures for verification of age of customers.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f)(1) Except as provided in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing marijuana to any person without compensation or profit. However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

(3) As used in this subsection, "social host" means a person who is not the holder of a marijuana establishment license and is not required under chapter 87 of this title to hold a marijuana establishment license.

Third: In Sec. 12, 18 V.S.A. § 4505(a)(2), in the second sentence, after the words "municipal permits" by adding under this subsection (a)

Fourth: In Sec. 12, after "Subchapter 2." by striking out the words "Department of Public Safety" and inserting in lieu thereof the word Administration

Fifth: In Sec. 12, 18 V.S.A. § 4511, before the words "For the purpose of" by adding (a) and by adding subsections (b) and (c) to read as follows:

(b)(1) For the purpose of regulating the cultivation and testing of marijuana in accordance with this chapter, the Agency of Agriculture, Food and Markets shall have the following authority and duties:

(A) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(B) the inspection of licensed marijuana cultivators and testing of marijuana; and

(C) the prevention of contaminated or adulterated marijuana from being offered for sale.

(2) The authority and duties of the Agency shall be in addition to, and not a substitute for, the authority and duties of the Department.

(c)(1) There is established a Marijuana Advisory Board within the Department for the purpose of advising the Department and other administrative agencies and departments regarding policy for the implementation and operation of this chapter. The Board shall be composed of the following members:

(A) the Commissioner of Public Safety or designee;

(B) the Secretary of Agriculture, Food and Markets or designee;

(C) the Commissioner of Health or designee;

(D) the Commissioner of Taxes or designee; and

(E) a member of local law enforcement appointed by the Governor.

(2) The Department shall endeavor to notify and consult with the Board prior to the adoption of any significant policy decision.

(3) The Secretary of Administration shall convene the first meeting of the Board on or before June 1, 2016 and shall attend Board meetings.

Sixth: In Sec. 12, 18 V.S.A. § 4512 by striking out “(1)–(3)” and inserting in lieu thereof (1)–(4)

Seventh: In Sec. 12, 18 V.S.A. § 4512(1)(B) by striking out “principals” and inserting in lieu thereof applicants

Eighth: In Sec. 12, 18 V.S.A. § 4512 by striking out subdivision (1)(K) in its entirety and by inserting in lieu thereof the following:

(K) procedures for seed to sale traceability of marijuana, including any requirements for tracking software;

Ninth: In Sec. 12, 18 V.S.A. § 4512 by striking out subdivisions (2)(A)–(C) in their entirety and by relettering the remaining subdivisions to be alphabetically correct

Tenth: In Sec. 12, 18 V.S.A. § 4512 by striking out subdivisions (4)(B) and (C) in their entirety and in subdivision (4)(A) after “samples;” by adding the word and, and by relettering the remaining subdivision to be alphabetically correct

Eleventh: In Sec. 12, 18 V.S.A. § 4512 in the first sentence before the word “The Department” by adding (a) and by adding a subsection (b) to read as follows:

(b) In addition to the rules adopted by the Department pursuant to subsection (a) of this section, the Agency of Agriculture, Food and Markets shall adopt rules regarding the cultivation and testing of marijuana regulated pursuant to this chapter as follows:

(1) restrictions on the use by cultivators of pesticides that are injurious to human health;

(2) standards for both the indoor and outdoor cultivation of marijuana, including environmental protection requirements;

(3) procedures and standards for testing marijuana for contaminants and potency and for quality assurance and control;

(4) reporting requirements of a testing laboratory; and

(5) inspection requirements for cultivators and testing laboratories.

Twelfth: In Sec. 12, 18 V.S.A. § 4513(b)(2) by striking out “January 1, 2018” and inserting in lieu thereof January 2, 2018

Thirteenth: In Sec. 12, by striking out 18 V.S.A. § 4513 in its entirety and inserting in lieu thereof the following:

#### § 4513. IMPLEMENTATION

(a)(1) On or before April 15, 2017, the Department shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any period of time at its discretion.

(2) On or before June 15, 2017, the Department shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before May 15, 2017, the Department shall begin accepting applications for retail licenses. The initial application period shall remain open

for 30 days. The Department may reopen the application process for any period of time at its discretion.

(2) On or before September 15, 2017, the Department shall begin issuing retailer licenses to qualified applicants. A license shall not permit a licensee to open the store to the public or sell marijuana to the public prior to January 2, 2018.

(c)(1) Prior to July 1, 2018, provided applicants meet the requirements of this chapter, the Department shall issue:

(A) a maximum of 10 cultivator licenses that permit a cultivation space of not more than 5,000 square feet;

(B) a maximum of five cultivator licenses that permit a cultivation space of 5,001–10,000 square feet;

(C) a maximum of five testing laboratory licenses; and

(D) a maximum of 15 retailer licenses.

(2) On or after July 1, 2018 and before July 1, 2019, provided applicants meet the requirements of this chapter and in addition to the licenses authorized in subdivision (1) of this subsection, the Department shall issue:

(A) a maximum of 10 cultivator licenses that permit a cultivation space of not more than 5,000 square feet for a total of 20 such licenses;

(B) a maximum of five cultivator licenses that permit a cultivation space of 5,001–10,000 square feet for a total of 10 such licenses;

(C) a maximum of five testing laboratory licenses for a total of 10 such licenses; and

(C) a maximum of 15 retailer licenses for a total of 30 such licenses.

(3) On or after July 1, 2019, the limitations in subdivision (1) of this subsection shall not apply and the Department shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed under the limitations of subdivisions (1) or (2) of this subsection may apply to the Department to modify its license to expand its cultivation space.

Fourteenth: In Sec. 12, 18 V.S.A. § 4522(c)(1) by inserting a subdivision (G) to read as follows:

(G) how the applicant will meet its operation's need for energy services at the lowest present value life-cycle cost, including environmental

and economic costs, through a strategy combining investments and expenditures on energy efficiency and energy supply;

And by relettering the remaining subdivisions to be alphabetically correct

Fifteenth: In Sec. 12, 18 V.S.A. § 4524(e) after the words “drug-related” by adding the word criminal

Sixteenth: In Sec. 12, 18 V.S.A. § 4525, in subsection (d), after the word “Department” by adding the words and Agency of Agriculture, Food and Markets and by adding a subsection (f) to read as follows:

(f)(1) Only unadulterated marijuana shall be offered for sale. If, upon inspection, the Agency of Agriculture, Food and Markets finds any violative pesticide residue or other contaminants of concern, the Agency shall order the marijuana, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Agency’s instructions.

(2) Marijuana ordered destroyed or placed on stop-sale shall be clearly separable from salable marijuana. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the marijuana affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days of receiving the order. The appeal shall be made in writing to the Secretary of Agriculture, Food and Markets and shall clearly identify the marijuana affected and the basis for the appeal.

Seventeenth: In Sec. 12, 18 V.S.A. § 4526, in subdivision (b)(1)(A), by striking out “one ounce” inserting in lieu thereof one-half ounce and in subsection (c) by striking out “may” and inserting in lieu thereof shall and after “marijuana” by adding , and after “plant” by adding , and shall not package marijuana with other items, such as paraphernalia, for sale to customers

Eighteenth: In Sec. 12, by striking out 18 V.S.A. § 4528 in its entirety and inserting in lieu thereof the following:

§ 4528. FEES

(a) The Department of Public Safety shall charge and collect initial license application fees and annual license renewal fees for each type of marijuana license under this chapter. Fees shall be due and payable at the time of license application or renewal.

(b)(1) The nonrefundable fee accompanying an application for a cultivator license pursuant to section 4525 of this chapter shall be determined as follows:

(A) For a cultivator license that permits a cultivation space of not more than 5,000 square feet, the application fee shall be \$15,000.00.

(B) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the application fee shall be \$25,000.00.

(2) The nonrefundable fee accompanying an application for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The nonrefundable fee accompanying an application for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$500.00.

(4) If person submits a qualifying application for a marijuana establishment license during an open application, pays the nonrefundable application fee, but is not selected to receive a license due to the limited number of licenses available, the person may reapply, based on availability, for such a license within two years by resubmitting the application with any necessary updated information, and shall be charged a fee that is:

(A) fifty percent of the application fees set forth in subdivision (1)–(3) of this subsection if the original application was submitted prior to July 1, 2018; or

(B) twenty-five percent of the application fees set forth in subdivisions (1)–(3) of this subsection if the original application was submitted on or after July 1, 2018 and before July 1, 2019.

(c)(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be shall be determined as follows:

(A) For a cultivator license that permits a cultivation space of not more than 5,000 square feet, the initial annual license and subsequent renewal fee shall be \$15,000.00.

(B) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the initial annual license and subsequent renewal fee shall be \$25,000.00.

(2) The initial annual license fee and subsequent annual renewal fee for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The initial annual license fee and subsequent annual renewal fee for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$2,500.00.



(d) The following administrative fees shall apply:

- (1) Change of corporate structure fee (per person) shall be \$1,000.00.
- (2) Change of name fee shall be \$1,000.00.
- (3) Change of location fee shall be \$1,000.00.
- (4) Modification of license premises fee shall be \$250.00.
- (5) Addition of financier fee shall be \$250.00.
- (6) Duplicate license fee shall be \$100.00.

Nineteenth: In Sec. 12, 18 V.S.A. chapter 87, by striking out subchapter 4 in its entirety and by redesignating subchapter 5 to be subchapter 4

Twentieth: In Sec. 12, 18 V.S.A. § 4546(b)(5) after the word “public” by inserting , one of whom shall have expertise in public health,

Twenty-first: In Sec. 12, 18 V.S.A. § 4547(a) in subdivision (7) by striking out the word “and” and in subdivision (8) by striking out “.” and inserting in lieu thereof; and by striking out subdivision (10) in its entirety and inserting in lieu thereof the following:

(10) monitor the extent to which marijuana is accessed through both the legal and illegal market by persons under 21 years of age;

(11) identify strategies for preventing youth from using marijuana;

(12) identify academic and scientific research, including longitudinal research questions, that when completed may assist policymakers in developing marijuana policy in accordance with this act;

(13) consider whether to create a local revenue stream which may include a local option excise tax on marijuana sales or municipally assessed fees; and

(14) report any recommendations to the General Assembly and the Governor, as needed.

Twenty-second: By adding a Sec. 12a to read as follows:

Sec. 12a. 32 V.S.A. chapter 207 is added to read:

#### CHAPTER 207. MARIJUANA TAXES

##### § 7901. TAX IMPOSED

(a) There is imposed a marijuana excise tax equal to 25 percent of the sales price, as that term is defined in subdivision 9701(4), on each retail sale of marijuana in this State. The tax imposed by this section shall be paid by the

buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

#### § 7902. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to clearly indicate the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

#### § 7903. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana subject to the tax under this chapter; or

(2) marijuana provided free of charge with the required purchase of another product.

#### § 7904. RETURNS

(a) Any retailer required to collect the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana sales subject to the excise tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

#### § 7905. LICENSES

(a) Every retailer required to collect the tax imposed by this chapter shall apply for a marijuana excise tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana excise

tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant's ceasing to do business at the place named. A license to collect marijuana excise tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Department of Public Safety.

(b) The Department of Public Safety may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Twenty-third: By adding a Sec. 12b to read as follows:

Sec. 12b. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

\* \* \*

(18) "Vermont net income" means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from State and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations;

(III) the amount of any deduction for a federal net operating loss; and

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

\* \* \*

(21) “Taxable income” means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business;

and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

\* \* \*

Twenty-fourth: By adding a Sec. 12c to read as follows:

Sec. 12c. 32 V.S.A. § 9741(51) is added to read:

(51) Marijuana sold by a dispensary as authorized under 18 V.S.A. chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

Twenty-fifth: By adding a Sec. 18a to read as follows:

Sec. 18a. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

\* \* \*

~~(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients but need not be recognized as a tax-exempt organization by the Internal Revenue Service.~~

~~(2) A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.~~

\* \* \*

(o) Notwithstanding any provision of law or any provision of its articles or bylaws to the contrary, a dispensary formed as a nonprofit may convert to any other type of business entity authorized by the laws of this State by:

(1) a majority vote of the directors and a majority vote of the members, if any; and

(2) filing with the Secretary of State a statement that the dispensary is converting to another type of entity and the documents required by law to form the type of entity.

Twenty-sixth: In Sec. 19, 18 V.S.A. § 4474g, after “\* \* \*” by adding the following:

(e) The Department of Public Safety shall not issue a registry identification card to any applicant who has been convicted of a drug-related criminal offense or a violent felony or who has a pending charge for such an offense. ~~For purposes of~~ As used in this subchapter, “violent felony” means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

\* \* \*

Twenty-seventh: By adding a Sec. 29a to read as follows:

Sec. 29a. 6 V.S.A. chapter 5 is amended to read:

#### CHAPTER 5. CENTRAL TESTING LABORATORY

##### § 121. CREATION AND PURPOSE

There is created within the Agency of Agriculture, Food and Markets a central testing laboratory for the purpose of providing agricultural, ~~and~~ environmental, and other necessary testing services.

##### § 122. FEES

Notwithstanding 32 V.S.A. § 603, the Agency shall establish fees for providing agricultural, ~~and~~ environmental, and other necessary testing services at the request of private individuals and State agencies. The fees shall be reasonably related to the cost of providing the services. Fees collected under this chapter shall be credited to a special fund which shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and which shall be available to the Agency to offset the cost of providing the services.

##### § 123. REGULATED DRUGS

(a) Except as provided in subsection (b) of this section, the provisions of 18 V.S.A. chapter 84 shall not apply to the Secretary or designee in the otherwise lawful performance of his or her official duties requiring the possession or control of regulated drugs.

(b) The central testing laboratory shall obtain a certificate of approval from the Department of Health pursuant to 18 V.S.A. § 4207.

(c) As used in this section, “regulated drug” shall have the same meaning as in 18 V.S.A. § 4201.

Twenty-eighth: By striking out Sec. 31 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 12, 12a, 18a, and 29a shall take effect on passage.

(b) Secs. 7, 10a, 11, 13 through 18, and 19 through 29 shall take effect on July 1, 2016.

(c) Sec. 12b shall take effect January 1, 2017 and shall apply to taxable year 2017 and after.

(d) Secs. 6, 8, 9, 10, 12c, and 30 shall take effect on January 2, 2018.

(Committee vote: 6-1-0)

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committees on Judiciary and Finance with the following amendments thereto:

First: In Sec. 1, by striking out subdivision (6) in its entirety and inserting in lieu thereof the following:

(6) Revenue generated by this act shall be used to provide for the implementation, administration, and enforcement of this chapter and to provide additional funding for State efforts on the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts to combat the illegal drug trade and impaired driving. As used in this subdivision, “criminal justice efforts” shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

Second: In Sec. 9, 18 V.S.A. § 4230a(b)(6) after the word “employment” by inserting or when an employee is acting in the scope of employment

Third: In Sec. 12, 18 V.S.A. § 4513(c)(3) by striking out “subdivision (1)” and inserting in lieu thereof subdivisions (1) and (2)

Fourth: In Sec. 12, by striking out 18 V.S.A. § 4529 in its entirety and inserting in lieu thereof the following:

§ 4529. MARIJUANA REGULATION AND RESOURCE FUND

(a) The Marijuana Regulation and Resource Fund is hereby created. The Fund shall be maintained by the Agency of Administration.

(b) The Fund shall be composed of:



(1) all application fees, license fees, renewal fees, and civil penalties collected by Departments pursuant to this chapter; and

(2) all taxes collected by the Commissioner of Taxes pursuant to this chapter.

(c)(1) Funds shall be appropriated as follows:

(A) For the purpose of implementation, administration, and enforcement of this chapter.

(B) Proportionately for the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts by State and local law enforcement to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(2) Appropriations made pursuant to subdivision (1) of this subsection shall be in addition to current funding of the identified priorities and shall not be used in place of existing State funding.

(d) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund.

(e) This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5. The Commissioner of Finance and Management shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(f) The Secretary of Administration shall report annually to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting.

Fifth: In Sec. 12, 18 V.S.A. § 4546, by striking out subsection (b) in its entirety and by inserting a new subsection (b) to read as follows:

(b) Membership. The Commission shall be composed of the following members:

(1) four members of the public appointed by the Governor, one of whom shall have experience in public health;

(2) one member of the House of Representatives, appointed by the Speaker of the House;

(3) one member of the Senate, appointed by the Committee on Committees; and

(4) the Attorney General or designee.

Sixth: In Sec.12, 18 V.S.A. § 4546 by adding a subsection (d) to read as follows:

(d) The Governor shall appoint one member for a one-year term, two members for two-year terms, and one member for a three-year term who shall serve as Chair. The Governor may reappoint members at his or her discretion.

Seventh: In Sec. 12, 18 V.S.A. § 4547 before “The Commission shall:” by striking out (a) and by striking out subsection (b) in its entirety

Eighth: In Sec. 12, 18 V.S.A. § 4548 in subsection (a) by striking out “Office of Legislative Council” and inserting in lieu thereof Administration and in subdivision (b)(1) by striking out “Office of Legislative Council” and inserting in lieu thereof Administration

Ninth: By striking out Sec. 13 in its entirety

Tenth: By adding a Sec. 22a to read as follows:

Sec. 22a. 23 V.S.A. § 1219 shall be amended as follows:

§ 1219. COMMERCIAL MOTOR VEHICLE; DETECTABLE AMOUNT;  
OUT-OF-SERVICE

A person who is operating, attempting to operate, or in actual physical control of a commercial motor vehicle with any measurable or detectable amount of alcohol or marijuana in his or her system shall immediately be placed out-of-service for 24 hours by an enforcement officer. A law enforcement officer who has reasonable grounds to believe that a person has a measurable or detectable amount of alcohol or marijuana in his or her system on the basis of the person’s general appearance, conduct, or other substantiating evidence, may request the person to submit to a test, which may be administered with a preliminary screening device. The law enforcement officer shall inform the person at the time the test is requested that refusal to submit will result in disqualification. If the person refuses to submit to the test, the person shall immediately be placed out-of-service for 24 hours and shall be disqualified from driving a commercial motor vehicle as provided in section 4116 of this title.

Eleventh: By adding a Sec. 22b to read as follows:

Sec. 22b. 23 V.S.A. § 4116 is amended to read:

§ 4116. DISQUALIFICATION

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of one year if convicted of a first violation of:

\* \* \*

(4) refusal to submit to a test to determine the operator's alcohol or marijuana concentration, as provided in section 1205, 1218, or 1219 of this title;

\* \* \*

Twelfth: In Sec. 24, by striking out "COMMISSIONER OF PUBLIC SAFETY" and inserting in lieu thereof REPORTING IMPAIRED DRIVING DATA and after "Commissioner of Public Safety" by inserting and the Secretary of Transportation, in collaboration, and in subdivision (3) by striking out "his or her" and inserting in lieu thereof their

Thirteenth: By striking out Sec. 25 in its entirety and by inserting a new Sec. 25 to read as follows:

Sec. 25. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert (DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to ensure that funding is available, either through the Governor's Highway Safety Program's administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for the enforcement impaired driving.

Fourteenth: By striking out Secs. 26 and 27 in their entirety and inserting in lieu thereof new Secs. 26 and 27, and a section 27a to read as follows:

Sec. 26. FISCAL YEAR 2017 APPROPRIATIONS FROM THE  
MARIJUANA REGULATION AND RESOURCE FUND

In fiscal year 2017 the follow amounts are appropriated from the Marijuana Regulation and Resource Fund:

(1) Department of Health: \$350,000.00 for initial prevention, education, and counter marketing programs.

(2) Tax Department: \$660,000.00 for the acquisition of an excise tax module and staffing expenses to administer the excise tax established in this act.

(3) Department of Public Safety:

(A) \$160,000.00 for staffing expenses related to rulemaking, program administration, and processing of applications.

(B) \$124,000.00 for laboratory equipment, supplies, training, testing, and contractual expenses required by this act.

(C) \$63,500.00 for matching funds needed for Drug Recognition Expert training for the department and other State law enforcement agencies in FY17 after other available matching funds are applied.

(D) Funding in Subdivision (B) and (C) of this section shall be transferred to the Agency of Transportation Governors Highway Safety Program. The \$493,000.00 federal Governor's Highway Safety Program funds are appropriated in FY 17 to the Agency of Transportation.

(4) Agency of Agriculture, Food and Markets:

(A) \$112,500.00 for the Vermont Agriculture and Environmental Lab.

(B) \$112,500.00 for staffing expenses related to rulemaking and program administration.

(5) Agency of Administration: \$150,000.00 for expenses and staffing of the Marijuana Program Review Commission established in this act.

#### Sec. 27. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of the following new permanent classified positions is authorized in fiscal year 2017 as follows:

(1) In the Department of Health—one (1) Substance Abuse Program Manager.

(2) In the Department of Taxes—one (1) Business Analyst AC: Tax and one (1) Tax Policy Analyst.

(3) In the Department of Public Safety—one (1) Program Administrator and one (1) Administrative Assistant.

(4) In the Agency of Agriculture, Food and Markets—one (1) Agriculture Chemist and one (1) Program Administrator.

(5) In the Marijuana Program Review Commission—one (1) exempt Commission Director.

Sec. 27a. MARIJUANA REGULATION AND RESOURCE FUND  
BUDGET AND REPORT

Annually, through 2018, the Secretary of Administration shall report to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting on the following:

(1) an update of the administration's efforts concerning implementation, administration, and enforcement of this act;

(2) any changes or updates to revenue expectations from fees and taxes based on changes in competitive pricing or other information;

(3) projected budget adjustment needs for current year appropriations from the Marijuana Regulation and Resource Fund; and

(4) a comprehensive spending plan with recommended appropriations from the Fund for the next the fiscal year, by department, including an explanation and justification for the expenditures and how each recommendation meets the intent of this act.

Fifteenth: By striking out Sec. 30 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 12, 12a, 18a, and 29a shall take effect on passage.

(b) Secs. 7, 8, 10a, 11, 14 through 18, 19 through 22, 23 through 29 shall take effect on July 1, 2016.

(c) Sec. 12b shall take effect on January 1, 2017 and shall apply to taxable year 2017 and after.

(d) Secs. 6, 9, 10, 12c, 22a, 22b, and 30 shall take effect on January 2, 2018.

(Committee vote: 4-3-0)

**Favorable with Proposal of Amendment**

**H. 84.**

An act relating to internet dating services.

**Reported favorably with recommendation of proposal of amendment by Senator Balint for the Committee on Economic Development, Housing & General Affairs.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) Currently, an Internet dating service does not have an affirmative duty under any state or federal law to ban a member of the service, but a service may choose to voluntarily ban a member for violating one or more terms of use, or because the service determines the member poses a risk of defrauding another member.

(2) In 2014, Internet dating services banned millions of members, the vast majority of which were banned within 72 hours of creating an account with the service.

(3) Of the members banned in 2014, well less than one percent contacted the Internet dating service concerning the ban.

(4) Due to a growing number of cases in which Vermont members of Internet dating services have lost significant financial amounts to persons using Internet dating services to defraud members or businesses, the Office of the Vermont Attorney General proposes this legislation, working with the input of multiple Internet dating services and other stakeholders.

(5) If an Internet dating service violates the statutory provisions created in this act, the Attorney General has the authority pursuant to 9 V.S.A. §§ 2458 and 2459 to request from a court, or to settle with the service for, restitution for a consumer or class of consumers affected by the violation.

(b) Purpose. The purposes of this act are:

(1) to protect Vermont consumers by requiring an Internet dating service to disclose in a timely manner important information about banned members to Vermont members of the service;

(2) to protect Internet dating services from liability to members for disclosing the information required by this act, while preserving liability to the State of Vermont and its agencies, departments, and subdivisions for violating this act; and

(3) to protect Vermont consumers and other members of Internet dating services by requiring an Internet dating service to notify its Vermont members when there is a significant change to the Vermont member's account information.

Sec. 2. 9 V.S.A. chapter 63, subchapter 8 is added to read:

Subchapter 8. Internet Dating Services

§ 2482a. DEFINITIONS

In this chapter:

(1) “Account change” means a change to a member’s password, username, e-mail address, or other contact information an Internet dating service uses to enable communications between members.

(2) “Banned member” means the member whose account or profile is the subject of a fraud ban.

(3) “Fraud ban” means barring a member’s account or profile from an Internet dating service because, in the judgment of the service, the member poses a significant risk of attempting to obtain money from other members through fraudulent means.

(4) “Internet dating service” means a person, or a division of a person, that is primarily in the business of providing dating services principally on or through the Internet.

(5) “Member” means a person who submits to an Internet dating service information required to access the service and who obtains access to the service.

(6) “Vermont member” means a member who provides a Vermont residential or billing address or zip code when registering with the Internet dating service.

§ 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

(a) An Internet dating service shall disclose to all of its Vermont members known to have previously received and responded to an on-site message from a banned member:

(1) the user name, identification number, or other profile identifier of the banned member;

(2) the fact that the banned member was banned because, in the judgment of the Internet dating service, the banned member may have been using a false identity or may pose a significant risk of attempting to obtain money from other members through fraudulent means;

(3) that a member should never send money or personal financial information to another member; and

(4) a hyperlink to online information that clearly and conspicuously addresses the subject of how to avoid being defrauded by another member of an Internet dating service.

(b) The notification required by subsection (a) of this section shall be:

(1) clear and conspicuous;

(2) by e-mail, text message, or other appropriate means of communication; and

(3) sent within 24 hours after the fraud ban, or at a later time if the service has determined, based on an analysis of effective messaging, that a different time is more effective, but in no event later than three days after the fraud ban.

(c) An Internet dating service shall disclose in an e-mail, text message, or other appropriate means of communication, in a clear and conspicuous manner, within 24 hours after discovering an account change to a Vermont member's account:

(1) the fact that information on the member's account has been changed;

(2) a brief description of the change; and

(3) if applicable, how the member may obtain further information on the change.

#### § 2482c. LIMITED IMMUNITY

(a) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for disclosing to any member that it has banned a member, the user name or identifying information of the banned member, or the reasons for the Internet dating service's decision to ban such member.

(b) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for the decisions regarding whether to ban a member, or how or when to notify a member pursuant to section 2482b of this title.

(c) This subchapter does not diminish or adversely affect the protections for Internet dating services that are afforded in 47 U.S.C. § 230 (Federal Communications Decency Act).

#### § 2482d. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.



(b) The Attorney General has the same authority to make rules, conduct civil investigations, and enter into assurances of discontinuance as is provided under subchapter 1 of this chapter.

### Sec. 3. EFFECTIVE DATES

(a) This section and 9 V.S.A. §§ 2482a, 2482c, and 2482d in Sec. 2 shall take effect on passage.

(b) In Sec. 2, 9 V.S.A. § 2482b shall take effect on January 1, 2017.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for May 14, 2015, page 1992-1995.)

## **FOR INFORMATION ONLY**

### **CROSS OVER DATES**

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Note:** The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

**Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Miscellaneous Tax Bill).**