

1 Introduced by Committee on Judiciary

2 Date:

3 Subject: Marijuana

4 Statement of purpose of bill as introduced: This bill proposes to ...

5 An act relating to marijuana

6 It is hereby enacted by the General Assembly of the State of Vermont:

7 * * * Prevention * * *

8 Sec. 1. MARIJUANA YOUTH EDUCATION AND PREVENTION

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

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

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

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

4 (iii) expand family education programs.

5 (B) An informational and countermarketing campaign using a public
6 website, printed materials, mass and social media, and advertisements for the
7 purpose of preventing underage marijuana use.

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

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

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

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

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

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

4 Sec. 2. FISCAL YEAR 2017 APPROPRIATION; EXECUTIVE BRANCH
5 POSITION AUTHORIZATION; DEPARTMENT OF HEALTH

6 (a) In fiscal year 2017, \$350,000.00 is appropriated to the Department of
7 Health for the marijuana prevention, education, and countermarketing
8 programs required by Sec. 1 of this act.

9 (b) One (1) Substance Abuse Program Manager is established as a new
10 permanent classified position in the Department of Health in fiscal year 2017.

11 * * * Civil and Criminal Penalties for Marijuana * * *

12 Sec. 4. 18 V.S.A. § 4230a is amended to read:

13 § 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE
14 OR OLDER; CIVIL VIOLATION

15 (a)(1) A person 21 years of age or older who knowingly and unlawfully
16 possesses one ounce or less of marijuana or, five grams or less of hashish, or
17 one or two marijuana plants, or who possesses paraphernalia for marijuana use
18 commits a civil violation and shall be assessed a civil penalty as follows:

19 ~~(1)~~(A) not more than \$200.00 for a first offense;

20 ~~(2)~~(B) not more than \$300.00 for a second offense;

21 ~~(3)~~(C) not more than \$500.00 for a third or subsequent offense.

1 (2) A person 21 years of age or older who knowingly and unlawfully
2 possesses more than one ounce but no more than two ounces of marijuana or
3 possesses more than five grams of hashish but no more than 10 grams of
4 hashish commits a civil violation and shall be assessed a civil penalty of not
5 more than \$500.00 for a first offense. A second offense shall be punished in
6 accordance with the penalties provided in subdivision (1)(A) of this subsection.

7 (3) Possession of any marijuana harvested from one or two plants
8 possessed in violation of subdivision (1) of this subsection shall be subject to
9 the penalties provided in that subdivision provided the harvested marijuana is
10 stored in a secure indoor facility on the property where the marijuana was
11 cultivated.

12 (b)(1) Except as otherwise provided in this section, a person 21 years of
13 age or older who possesses ~~one ounce~~ two ounces or less of marijuana ~~or five,~~
14 10 grams or less of hashish, or one or two marijuana plants, or who possesses
15 paraphernalia for marijuana use shall not be penalized or sanctioned in any
16 manner by the State or any of its political subdivisions or denied any right or
17 privilege under State law.

18 (2) A violation of this section shall not result in the creation of a
19 criminal history record of any kind.

20 (c)(1) This section does not exempt any person from arrest or prosecution
21 for being under the influence of marijuana while operating a vehicle of any

1 kind and shall not be construed to repeal or modify existing laws or policies
2 concerning the operation of vehicles of any kind while under the influence of
3 marijuana.

4 (2) This section is not intended to affect the search and seizure laws
5 afforded to duly authorized law enforcement officers under the laws of this
6 State. Marijuana is contraband pursuant to section 4242 of this title and
7 subject to seizure and forfeiture unless possessed in compliance with chapter
8 86 of this title (therapeutic use of cannabis).

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

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

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

18 (A) the officer has reasonable grounds to believe the person has
19 violated this section; and

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

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

8 (f) Fifty percent of the civil penalties imposed by the Judicial Bureau for
9 violations of this section shall be deposited in the Drug Task Force Special
10 Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7,
11 subchapter 5, and available to the Department of Public Safety for the funding
12 of law enforcement officers on the Drug Task Force, except for a \$12.50
13 administrative charge for each violation which shall be deposited in the Court
14 Technology Special Fund, in accordance with 13 V.S.A. § 7252. The
15 remaining 50 percent shall be deposited in the Youth Substance Abuse Safety
16 Program Special Fund, hereby created to be managed pursuant to 32 V.S.A.
17 chapter 7, subchapter 5, and available to the Court Diversion Program for
18 funding of the Youth Substance Abuse Safety Program as required by section
19 4230b of this title.

1 Sec. 3. 18 V.S.A. § 4230 is amended to read:

2 § 4230. MARIJUANA

3 (a) Possession and cultivation.

4 (1)(A) No person shall knowingly and unlawfully possess more than ~~one~~
5 ~~ounce~~ two ounces of marijuana or more than ~~five~~ 10 grams of hashish or
6 cultivate more than two marijuana plants. For a first offense under this
7 subdivision (A), a person shall be provided the opportunity to participate in the
8 Court Diversion Program unless the prosecutor states on the record why a
9 referral to the Court Diversion Program would not serve the ends of justice. A
10 person convicted of a first offense under this subdivision shall be imprisoned
11 not more than six months or fined not more than \$500.00, or both.

12 (B) A person convicted of a second or subsequent offense of
13 knowingly and unlawfully possessing more than ~~one ounce~~ two ounces of
14 marijuana or more than ~~five~~ 10 grams of hashish or cultivating more than two
15 marijuana plants shall be imprisoned not more than two years or fined not
16 more than \$2,000.00, or both.

17 (C) Upon an adjudication of guilt for a first or second offense under
18 this subdivision, the court may defer sentencing as provided in 13 V.S.A.
19 § 7041 except that the court may in its discretion defer sentence without the
20 filing of a presentence investigation report and except that sentence may be
21 imposed at any time within two years from and after the date of entry of

1 deferment. The court may, prior to sentencing, order that the defendant submit
2 to a drug assessment screening which may be considered at sentencing in the
3 same manner as a presentence report.

4 ~~(2) A person knowingly and unlawfully possessing two ounces or more~~
5 ~~of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating~~
6 ~~more than three plants of marijuana shall be imprisoned not more than three~~
7 ~~years or fined not more than \$10,000.00, or both.~~

8 ~~(3)~~ A person knowingly and unlawfully possessing more than one pound
9 ~~or more~~ of marijuana or more than 2.8 ounces ~~or more~~ of hashish or knowingly
10 and unlawfully cultivating more than 10 plants of marijuana shall be
11 imprisoned not more than ~~five~~ three years or fined not more than \$100,000.00,
12 or both.

13 ~~(4)~~(3) A person knowingly and unlawfully possessing 10 pounds or
14 more of marijuana or one pound or more of hashish or knowingly and
15 unlawfully cultivating more than ~~25~~ 40 plants of marijuana shall be imprisoned
16 not more than ~~45~~ 10 years or fined not more than \$500,000.00, or both.

17 ~~(5)~~(4) Prior to accepting a plea of guilty or a plea of nolo contendere
18 from a defendant charged with a violation of this subsection, the court shall
19 address the defendant personally in open court, informing the defendant and
20 determining that the defendant understands that admitting to facts sufficient to
21 warrant a finding of guilt or pleading guilty or nolo contendere to the charge

1 may have collateral consequences such as loss of education financial aid,
2 suspension or revocation of professional licenses, and restricted access to
3 public benefits such as housing. If the court fails to provide the defendant with
4 notice of collateral consequences in accordance with this subdivision and the
5 defendant later at any time shows that the plea and conviction may have or has
6 had a negative consequence, the court, upon the defendant's motion, shall
7 vacate the judgment and permit the defendant to withdraw the plea or
8 admission and enter a plea of not guilty. Failure of the court to advise the
9 defendant of a particular collateral consequence shall not support a motion to
10 vacate.

11 (b) Selling or dispensing.

12 (1) A person knowingly and unlawfully selling marijuana or hashish
13 shall be imprisoned not more than two years or fined not more than
14 \$10,000.00, or both.

15 (2) A person knowingly and unlawfully selling or dispensing ~~one-half~~
16 ~~ounce or more~~ than one ounce of marijuana or ~~2.5~~ five grams or more of
17 hashish shall be imprisoned not more than five years or fined not more than
18 \$100,000.00, or both.

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

1 (c) Trafficking. A person knowingly and unlawfully possessing 50 pounds
2 or more of marijuana or five pounds or more of hashish with the intent to sell
3 or dispense the marijuana or hashish shall be imprisoned not more than
4 30 years or fined not more than \$1,000,000.00, or both. There shall be a
5 permissive inference that a person who possesses 50 pounds or more of
6 marijuana or five pounds or more of hashish intends to sell or dispense the
7 marijuana or hashish.

8 Sec. 5. REPEAL

9 18 V.S.A. § 4230c (marijuana possession by a person under 21 years of age;
10 third or subsequent offense; crime) is repealed.

11 Sec. 6. 18 V.S.A. § 4230e is added to read:

12 § 4230e. CHEMICAL EXTRACTION PROHIBITED

13 (a) No person shall manufacture concentrated marijuana by chemical
14 extraction or chemical synthesis using a solvent such as butane, hexane,
15 isopropyl alcohol, ethanol, or carbon dioxide unless authorized as a dispensary
16 pursuant to a registration issued by the Department of Public Safety pursuant
17 to chapter 86 of this title.

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

1 another person shall be imprisoned not more than five years or fined not more
2 than \$5,000.00, or both.

3 * * * Impaired Driving * * *

4 Sec. 7. 23 V.S.A. § 1134 is amended to read:

5 § 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR
6 POSSESSION OF ALCOHOL OR MARIJUANA

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

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

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

1 (d) A person who violates subsection (a) of this section shall be assessed a
2 civil penalty of not more than \$500.00. A person who violates subsection (b)
3 of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00.

4 A person adjudicated and assessed a civil penalty for an offense under
5 subsection (a) of this section shall not be subject to a civil violation for the
6 same actions under subsection (b) of this section.

7 Sec. 8. 23 V.S.A. § 1134a is amended to read:

8 § 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR
9 POSSESSION OF ALCOHOL OR MARIJUANA

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

16 (b) As used in this section, “passenger area” shall mean the area designed
17 to seat the operator and passengers while the motor vehicle is in operation and
18 any area that is readily accessible to the operator or passengers while in their
19 seating positions, including the glove compartment, unless the glove
20 compartment is locked. In a motor vehicle that is not equipped with a trunk,

1 the term shall exclude the area behind the last upright seat or any area not
2 normally occupied by the operator or passengers.

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

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

9 Sec. 9. 23 V.S.A. § 1201 is amended to read:

10 § 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF
11 INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL
12 REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

13 (a) A person shall not operate, attempt to operate, or be in actual physical
14 control of any vehicle on a highway:

15 (1) when the person's alcohol concentration is:

16 (A) 0.08 or more; or

17 (B) 0.02 or more if the person is operating a school bus as defined in
18 subdivision 4(34) of this title; or

19 (C) 0.04 or more if the person is operating a commercial motor
20 vehicle as defined in subdivision 4103(4) of this title; or

1 (D) 0.05 or more and the person has any detectable amount of
2 delta-9 tetrahydrocannabinol or other psychoactive metabolites of marijuana in
3 the person's blood; or

4 (2) when the person is under the influence of intoxicating liquor; or

5 (3) when the person is under the influence of any other drug or under the
6 combined influence of alcohol and any other drug; ~~or~~

7 ~~(4) when the person's alcohol concentration is 0.04 or more if the person~~
8 ~~is operating a commercial motor vehicle as defined in subdivision 4103(4) of~~
9 ~~this title.~~

10 (b) A person who has previously been convicted of a violation of this
11 section shall not operate, attempt to operate, or be in actual physical control of
12 any vehicle on a highway and refuse a law enforcement officer's reasonable
13 request under the circumstances for an evidentiary test where the officer had
14 reasonable grounds to believe the person was in violation of subsection (a) of
15 this section.

16 (c) A person shall not operate, attempt to operate, or be in actual physical
17 control of any vehicle on a highway and be involved in an accident or collision
18 resulting in serious bodily injury or death to another and refuse a law
19 enforcement officer's reasonable request under the circumstances for an
20 evidentiary test where the officer has reasonable grounds to believe the person
21 has any amount of alcohol in the system.

1 (d)(1) A person who is convicted of a second or subsequent violation of
2 subsection (a), (b), or (c) of this section when the person's alcohol
3 concentration is proven to be 0.16 or more shall not, for three years from the
4 date of the conviction for which the person's alcohol concentration is 0.16 or
5 more, operate, attempt to operate, or be in actual physical control of any
6 vehicle on a highway when the person's alcohol concentration is 0.02 or more.
7 The prohibition imposed by this subsection shall be in addition to any other
8 penalties imposed by law.

9 (2) A person shall not operate, attempt to operate, or be in actual
10 physical control of any vehicle on a highway when the person's alcohol
11 concentration is 0.02 or more if the person has previously been convicted of a
12 second or subsequent violation of subsection (a), (b), or (c) of this section
13 within the preceding three years and the person's alcohol concentration for the
14 second or subsequent violation was proven to be 0.16 or greater. A violation
15 of this subsection shall be considered a third or subsequent violation of this
16 section and shall be subject to the penalties of subsection 1210(d) of this title.

17 (e) The fact that a person charged with a violation of this section is or has
18 been entitled to use a drug under the laws of this State shall not constitute a
19 defense against any charge of violating this section.

20 (f) A person may not be convicted of more than one violation of subsection
21 (a) of this section arising out of the same incident.

1 (g) For purposes of this section and section 1205 of this title, the defendant
2 may assert as an affirmative defense that the person was not operating,
3 attempting to operate, or in actual physical control of the vehicle because the
4 person:

5 (1) had no intention of placing the vehicle in motion; and

6 (2) had not placed the vehicle in motion while under the influence.

7 (h) As used in subdivision (a)(3) of this section, “under the influence of a
8 drug” means that a person’s ability to operate a motor vehicle safely is
9 diminished or impaired in the slightest degree. This subsection shall not be
10 construed to affect the meaning of the term “under the influence of intoxicating
11 liquor.”

12 Sec. 10. 23 V.S.A. § 1202 is amended to read:

13 § 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD
14 ALCOHOL CONTENT

15 (a)(1) Implied consent. Every person who operates, attempts to operate, or
16 is in actual physical control of any vehicle on a highway in this State is deemed
17 to have given consent to an evidentiary test of that person’s breath for the
18 purpose of determining the person’s alcohol concentration or the presence of
19 other drug in the blood. The test shall be administered at the direction of a law
20 enforcement officer.

1 (2)(A) Blood test. If A person is deemed to have given consent to the
2 taking of an evidentiary sample of blood if:

3 (i) breath testing equipment is not reasonably available; or ~~if~~

4 (ii) the law enforcement officer has ~~reason~~ reasonable grounds to
5 believe that the person:

6 (I) is unable to give a sufficient sample of breath for testing; or
7 ~~if the law enforcement officer has reasonable grounds to believe that the~~
8 ~~person~~

9 (II) is under the influence of a drug other than alcohol; or

10 (III) ~~the person is deemed to have given consent to the taking~~
11 ~~of an evidentiary sample of blood~~ is under the influence of alcohol and a drug.

12 (B) If in the officer's opinion the person is incapable of decision or
13 unconscious or dead, it is deemed that the person's consent is given and a
14 sample of blood shall be taken.

15 (3) Evidentiary test. The evidentiary test shall be required of a person
16 when a law enforcement officer has reasonable grounds to believe that the
17 person was operating, attempting to operate, or in actual physical control of a
18 vehicle in violation of section 1201 of this title.

19 (4) Fatal collision or incident resulting in serious bodily injury. The
20 evidentiary test shall also be required if the person is the surviving operator of
21 a motor vehicle involved in a fatal incident or collision or an incident or

1 collision resulting in serious bodily injury and the law enforcement officer has
2 reasonable grounds to believe that the person has any amount of alcohol or
3 other drug in his or her system.

4 (b) If the person refuses to submit to an evidentiary test it shall not be
5 given, except as provided in subsection (f) of this section, but the refusal may
6 be introduced as evidence in a criminal proceeding.

7 (c) A person who is requested by a law enforcement officer to submit to an
8 evidentiary test or tests has a right as herein limited to consult an attorney
9 before deciding whether or not to submit to such a test or tests. The person
10 must decide whether or not to submit to the evidentiary test or tests within a
11 reasonable time and no later than 30 minutes from the time of the initial
12 attempt to contact the attorney. The person must make a decision about
13 whether or not to submit to the test or tests at the expiration of the 30 minutes
14 regardless of whether a consultation took place.

15 (d) At the time a test is requested, the person shall be informed of the
16 following statutory information:

17 (1) Vermont law authorizes a law enforcement officer to request a test to
18 determine whether the person is under the influence of alcohol or other drug.

19 (2) If the officer's request is reasonable and testing is refused, the
20 person's license or privilege to operate will be suspended for at least six
21 months.

1 (3) If a test is taken and the results indicate that the person is under the
2 influence of alcohol or other drug, the person will be subject to criminal
3 charges and the person’s license or privilege to operate will be suspended for at
4 least 90 days.

5 (4) A person who is requested by a law enforcement officer to submit to
6 an evidentiary test or tests has the limited right to consult an attorney before
7 deciding whether or not to submit to such a test or tests. The person must
8 decide whether or not to submit to the evidentiary test or tests within a
9 reasonable time and no later than 30 minutes from the time of the initial
10 attempt to contact the attorney regardless of whether a consultation took place.
11 The person also has the right to have additional tests made by someone of the
12 person’s own choosing at the person’s own expense. The person shall also be
13 informed of the location of one or more facilities available for drawing blood.

14 (5) A person who is requested by a law enforcement officer to submit to
15 an evidentiary test administered with an infrared breath-testing instrument may
16 elect to have a second infrared test administered immediately after receiving
17 the results of the first test.

18 (6) If the person refuses to take an evidentiary test, the refusal may be
19 offered into evidence against the person at trial, whether or not a search
20 warrant is sought. The person may be charged with the crime of criminal
21 refusal if the person:

1 (A) has previously been convicted of a violation of section 1201 of
2 this title; or

3 (B) is involved in an accident or collision resulting in serious bodily
4 injury or death to another, in which case the court may issue a search warrant
5 and order the person to submit to a blood test, the results of which may be
6 offered into evidence against the person at trial.

7 (e) In any proceeding under this subchapter, a law enforcement officer's
8 testimony that he or she is certified pursuant to ~~section~~ 20 V.S.A. § 2358 shall
9 be prima facie evidence of that fact.

10 (f) If a person who has been involved in an accident or collision resulting in
11 serious bodily injury or death to another refuses an evidentiary test, a law
12 enforcement officer may apply for a search warrant pursuant to Rule 41 of the
13 Vermont Rules of Criminal Procedure to obtain a sample of blood for an
14 evidentiary test. If a blood sample is obtained by search warrant, the fact of
15 the refusal may still be introduced in evidence, in addition to the results of the
16 evidentiary test. Once a law enforcement official begins the application
17 process for a search warrant, the law enforcement official is not obligated to
18 discontinue the process even if the person later agrees to provide an
19 evidentiary breath sample. The limitation created by Rule 41(g) of the
20 Vermont Rules of Criminal Procedure regarding blood specimens shall not
21 apply to search warrants authorized by this section.

1 (g) The Defender General shall provide statewide 24-hour coverage seven
2 days a week to assure that adequate legal services are available to persons
3 entitled to consult an attorney under this section.

4 Sec. 11. 23 V.S.A. § 1204 is amended to read:

5 § 1204. PERMISSIVE INFERENCES

6 (a) Upon the trial of any civil or criminal action or proceeding arising out
7 of acts alleged to have been committed by a person while operating, attempting
8 to operate or in actual physical control of a vehicle on a highway, the person's
9 alcohol concentration or alcohol concentration and evidence of delta-9
10 tetrahydrocannabinol or other psychoactive metabolites of marijuana shall give
11 rise to the following permissive inferences:

12 (1) If the person's alcohol concentration at that time was less than 0.08,
13 such fact shall not give rise to any presumption or permissive inference that the
14 person was or was not under the influence of intoxicating liquor, but such fact
15 may be considered with other competent evidence in determining whether the
16 person was under the influence of intoxicating liquor.

17 (2) If the person's alcohol concentration at that time was 0.08 or more, it
18 shall be a permissive inference that the person was under the influence of
19 intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

20 (3) If the person's alcohol concentration at that time was 0.05 or more
21 and the person had any detectable amount of delta-9 tetrahydrocannabinol or

1 other psychoactive metabolites of marijuana in the person's blood, it shall be a
2 permissive inference that the person was under the combined influence of
3 alcohol and any other drug in violation of subdivision 1201(a)(3) of this title.

4 (4) If the person's alcohol concentration at any time within two hours of
5 the alleged offense was 0.10 or more, it shall be a permissive inference that the
6 person was under the influence of intoxicating liquor in violation of
7 subdivision 1201(a)(2) or (3) of this title.

8 (b) The foregoing provisions shall not be construed as limiting the
9 introduction of any other competent evidence bearing upon the question
10 whether the person was under the influence of intoxicating liquor, nor shall
11 they be construed as requiring that evidence of the amount of alcohol in the
12 person's blood, breath, urine, or saliva must be presented.

13 Sec. 12. FISCAL YEAR 2017 APPROPRIATIONS; DEPARTMENT OF
14 PUBLIC SAFETY

15 (a) In fiscal year 2017, the following amounts are appropriated to the
16 Department of Public Safety:

17 (1) \$124,000.00 for forensic laboratory equipment, supplies, training,
18 testing, and contractual expenses.

19 (2) \$460,000.00 for the forensic laboratory capital construction
20 renovations.

1 (3) \$63,500.00 for matching funds needed for Drug Recognition Expert
2 training for the Department and other State law enforcement agencies in
3 FY2017 after other available matching funds are applied.

4 (b) Funding in subdivision (a)(3) of this section shall be transferred to the
5 Agency of Transportation’s Governor’s Highway Safety Program. The
6 \$493,000.00 federal Governor’s Highway Safety Program funds are
7 appropriated in FY2017 to the Agency of Transportation.

8 Sec. 13. VERMONT GOVERNOR’S HIGHWAY SAFETY PROGRAM

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

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

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

4 Sec. 14. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

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

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

1 (e)(1) In developing proposals for consideration by the Administration and
2 the General Assembly, the Commission shall:

3 (A) weigh the various options for the appropriate existing or new
4 governmental agency or department to administer and enforce a marijuana
5 regulatory system;

6 (B) propose a comprehensive regulatory structure that establishes
7 controlled access to marijuana in a manner that, when compared to the current
8 illegal marijuana market, increases public safety and reduces harm to public
9 health;

10 (C) review the statutes and rules for the therapeutic marijuana
11 program and dispensaries and determine whether additional amendments are
12 necessary to maintain patient access to marijuana and viability of the
13 dispensaries;

14 (D) examine the issue of marijuana concentrates and edible marijuana
15 products and whether Vermont can allow and regulate their manufacture and
16 sale safely and, if so, how;

17 (E) recommend strategies for addressing impaired driving as it relates
18 to marijuana use;

19 (F) identify strategies for preventing youths from using
20 marijuana; and

1 (G) consider the potential impacts of a regulated commercial
2 marijuana market on employment and labor issues;

3 (H) recommend a fee and tax structure that balances the following:

4 (i) funding a robust regulatory program;

5 (ii) using revenues for the prevention of substance abuse,
6 treatment of substance abuse, and criminal justice efforts to combat the illegal
7 drug trade and impaired driving;

8 (iii) permitting an environment in which responsible licensed
9 marijuana establishments can offer marijuana at a price that will undercut the
10 illegal market; and

11 (iv) favoring dispensaries to sustain provision of marijuana to
12 registered patients.

13 (2) Any proposal shall take into consideration the shared state and
14 federal concerns about marijuana reform and seek to provide better control of
15 access and distribution of marijuana in a manner that prevents:

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

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

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

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

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

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

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

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

9 (f) The Commission shall consult with other states and jurisdictions that
10 have legalized marijuana and monitor them regarding implementation of
11 regulation, policies, and strategies that have been successful and problems that
12 have arisen.

13 (g) The Commission shall report to the Governor and the General
14 Assembly, as needed, but shall issue its final recommendations on or before
15 November 1, 2017.

16 (h) The Commission shall have the administrative, technical, and legal
17 assistance of the Administration, including that of a Director of the
18 Commission.

19 (i) The Administration shall call the first meeting of the Commission to
20 occur on or before August 1, 2016. A majority of the membership shall
21 constitute a quorum. The Commission shall cease meeting regularly after the

1 issuance of its final report, but the Director shall continue in the position until
2 July 1, 2018 and shall be available to meet with Administration officials and
3 the General Assembly to discuss the Commission’s recommendations. The
4 Commission shall cease to exist on July 1, 2018.

5 (j) For attendance at meetings during adjournment of the General
6 Assembly, legislative members of the Commission shall be entitled to per diem
7 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for
8 as many meetings as the Chair deems necessary. Other members of the
9 Commission who are not employees of the State of Vermont and who are not
10 otherwise compensated or reimbursed for their attendance shall be entitled to
11 per diem compensation and reimbursement of expenses pursuant to 32 V.S.A.
12 § 1010.

13 Sec. 16. FISCAL YEAR 2017 APPROPRIATION; EXECUTIVE BRANCH
14 POSITION AUTHORIZATION; AGENCY OF ADMINISTRATION

15 (a) In fiscal year 2017, \$150,000.00 is appropriated to the Agency of
16 Administration for expenses and staffing of the Marijuana Advisory
17 Commission established in Sec. 15 of this act.

18 (b) One (1) exempt Marijuana Advisory Commission Director is
19 established in the Agency of Administration.

1 Sec. 17. WORKFORCE STUDY COMMITTEE

2 (a) Creation. There is created a Workforce Study Committee to examine
3 the potential impacts of alcohol and drug use on the workplace.

4 (b) Membership. The Committee shall be composed of the following five
5 members:

6 (1) the Secretary of Commerce and Community Development or
7 designee;

8 (2) the Commissioner of Labor or designee;

9 (3) the Commissioner of Health or designee;

10 (4) one person representing the interests of employees appointed by the
11 Governor; and

12 (5) one person representing the interests of employers appointed by the
13 Governor.

14 (c) Powers and duties. The Committee shall study:

15 (1) whether Vermont's workers' compensation and unemployment
16 insurance systems are adversely affected by alcohol and drug use and identify
17 regulatory or legislative measures to mitigate any adverse impacts;

18 (2) the issue of alcohol and drugs in the workplace and determine
19 whether Vermont's workplace drug testing laws should be amended to provide
20 employers with broader authority to conduct drug testing, including by
21 permitting drug testing based on a reasonable suspicion of drug use, or by

1 authorizing employers to conduct postaccident, employerwide, or
2 postrehabilitation follow-up testing of employees; and

3 (3) the impact of alcohol and drug use on workplace safety and identify
4 regulatory or legislative measures to address adverse impacts and enhance
5 workplace safety.

6 (d) Assistance. The Committee shall have the administrative, technical,
7 and legal assistance of the Agency of Commerce and Community
8 Development, the Department of Labor, and the Department of Health.

9 (e) Report. On or before December 1, 2016, the Committee shall submit a
10 written report with findings and recommendations to the House Committee on
11 General, Housing and Military Affairs and the Senate Committee on Economic
12 Development, Housing and General Affairs with its findings and any
13 recommendations for legislative action.

14 (f) Meetings.

15 (1) The Secretary of Commerce or designee shall call the first meeting
16 of the Committee to occur on or before September 15, 2016.

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

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

20 (4) The Committee shall cease to exist on December 31, 2016.

1

* * * Effective Date * * *

2

Sec. 18. EFFECTIVE DATE

3

This act shall take effect on July 1, 2016.

DRAFT