

**Amendment to be offered by Reps. Conquest of Newbury, Copeland-Hanzas of Bradford, Grad of Moretown, Komline of Dorset, Olsen of Londonderry, and Young of Glover to H. 858**

That the House concur in the Senate proposal of amendment with further proposal of amendment as follows:

First: By striking out Secs. 8–11 and 13–41 in their entirety.

Second: By redesignating Sec. 12 to be Sec. 8

Third: By adding Secs. 9–20 to read as follows:

Sec. 9. 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 youths 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 youths in schools and other settings; and

(iii) expand family education programs.

(B) An informational and countermarketing 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 youths 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 this subsection 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 youths 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 youths shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

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

§ 4230. MARIJUANA

(a) Possession and cultivation.

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

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

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

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Sec. 11. 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, or not more than two marijuana plants, or who possesses paraphernalia for marijuana use commits a civil violation and shall be assessed a civil penalty as follows:

~~(1)~~(A) not more than ~~\$200.00~~ \$100.00 for a first offense;

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

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

(2) Possession of any marijuana harvested from no more than two plants possessed in violation of subdivision (1) of this subsection shall be subject to the penalties provided in that subdivision, provided the harvested marijuana is stored in a secure indoor facility on the property where the marijuana was cultivated.

(3) Although possession of marijuana plants is unlawful, if a person does possess marijuana plants, the penalties provided in subdivision (1) of this subsection shall apply only under the following circumstances:

(A) The plants are possessed on property lawfully in possession of the person or with the consent of the person in lawful possession of the property and screened from public view. If the plants are not possessed in accordance with this subdivision (a)(3)(A), the person in possession of those plants shall be subject to the penalties in subdivision (a)(1)(B) of this section.

(B) No more than four marijuana plants are possessed per dwelling unit or per property owned or controlled by a person or persons in possession of the plants, regardless of how many persons 21 years of age or older reside in the dwelling unit or on the property. If a dwelling unit has more than four marijuana plants, the person or persons in possession of those plants shall be subject to the penalties in section 4230 of this title. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(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 not more than two marijuana plants, 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 violation of this section shall not result in the creation of a criminal history record of any kind.

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Sec. 12. 18 V.S.A. § 4230e is added to read:

§ 4230e. CHEMICAL EXTRACTION PROHIBITED

(a) No person shall manufacture concentrated marijuana by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit.

(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.

Sec. 13. 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. 14. 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. 15. 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 enforcement efforts to address impaired driving.

Sec. 16. MARIJUANA ADVISORY COMMISSION

(a) There is created a temporary Marijuana Advisory Commission for the purpose of providing guidance to the Administration and the General Assembly on issues relating to the national trend toward reclassifying marijuana at the state level, and the emergence of a regulated adult-use commercial market for marijuana within Vermont.

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

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

(2) two members of the House of Representatives, appointed by the Speaker of the House;

(3) two members of the Senate, appointed by the Committee on Committees;

(4) the Attorney General or designee; and

(5) a representative of the Vermont League of Cities and Towns.

(c) Legislative members shall serve only while in office.

(d) The Governor may appoint new members of the public when a vacancy occurs.

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

(A) prioritize the need for a solution that is consistent with Vermont values, culture, and scale;

(B) consult with other states and jurisdictions that have legalized marijuana, and monitor them regarding implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

(C) recommend approaches for preventing, detecting, and penalizing impaired driving as it relates to marijuana use, drawing on the latest information in Vermont and other jurisdictions;

(D) identify effective educational, preventative, and treatment strategies for reducing marijuana use by youth and monitor the impact of legalization in other jurisdictions on youth;

(E) consider the fiscal impact of revenue issues arising from the emergence of an adult-use commercial market for marijuana, with particular attention paid to other jurisdictions' experiences and choices in establishing tax and fee structures;

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

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

(H) explore options for municipalities to regulate marijuana establishments within their jurisdictions;

(I) 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;

(J) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;

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

(L) 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; and

(M) any other issues the Commission finds important to the current policy discussions on marijuana.

(2) Any proposal shall take into consideration the shared State and federal concerns about marijuana reform and seek 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.

(f) The Commission shall report to the Governor and the General Assembly, as needed, but shall issue its final recommendations on or before December 15, 2016. The Commission shall cease to exist February 1, 2017.

(g) The Commission shall have the administrative, technical, and legal assistance of the Administration.

(h) The Administration shall call the first meeting of the Commission to occur on or before July 1, 2016. The Commission shall select a chair from among its members at the first meeting. A majority of the membership shall constitute a quorum.

(i) 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. 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. 17. WORKFORCE STUDY COMMITTEE

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

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

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

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

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

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



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

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

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont's workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by authorizing employers to conduct postaccident, employerwide, or postrehabilitation follow-up testing of employees; and

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

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

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

(f) Meetings.

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

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

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

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

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

#### Sec. 18. EFFECTIVE DATES

(a) This section, Secs. 1 (human trafficking), 2 (co-payment and reimbursement orders), 2a (expungement), 2b (sealing), 3 (listed crime definition), 4 (sex offender registry), 5 and 6 (innocence protection), 7 (marijuana criminal penalties), 8 (Justice Oversight Committee), 9 (marijuana youth education and prevention), 15 (impaired driving training for law

enforcement), 16 (Marijuana Advisory Commission), and 17 (Workforce Study Committee) shall take effect on passage.

(b) Secs. 10 (marijuana criminal penalties), 11 (marijuana civil penalties), 12 (chemical extraction of marijuana), 13 (open container; operator), 14 (open container; passenger) shall take effect July 1, 2016.

**H. 878**

An act relating to capital construction and State bonding budget adjustment

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Capital Appropriations \* \* \*

Sec. 1. 2015 Acts and Resolves No. 26, Sec. 2 is amended to read:

Sec. 2. STATE BUILDINGS

\* \* \*

(c) The following sums are appropriated in FY 2017:

\* \* \*

(5) Statewide, major maintenance:           ~~\$8,000,000.00~~ \$8,300,000.00

(6) Statewide, BGS engineering and architectural project costs:  
  ~~\$3,677,448.00~~ \$3,553,061.00

(7) Statewide, physical security enhancements:  
  ~~\$200,000.00~~ \$1,000,000.00

(8) ~~Montpelier, 115 State Street, State House lawn, access improvements and water intrusion:~~           ~~\$300,000.00~~ [Repealed.]

(9) Montpelier, 120 State Street, life safety and infrastructure improvements:  
  ~~\$1,000,000.00~~ \$1,500,000.00

\* \* \*

(13) Statewide, strategic building realignments:  
  ~~\$300,000.00~~ \$250,000.00

(14) Burlington, 108 Cherry Street, parking garage, repair:  
  \$300,000.00

(15) Southern State Correctional Facility, steam line replacement:  
  \$200,000.00

(16) Statewide, ADA projects, State-owned buildings and courthouses:  
  \$74,000.00