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LAW ENFORCEMENT ASSOCIATIONS: WE OPPOSE MARIJUANA LEGALIZATION

Editor's note: This commentary is by Bennington Police Chief Paul Doucette, president of the Vermont Association of Chiefs of Police; Orange County Sheriff Bill Bohnyak, president of the Vermont Sheriffs Association; Vergennes Police Chief George Merkel, president of the Vermont Police Association; and Colchester Police Chief Jennifer Morrison on behalf of the Chittenden County Law Enforcement Executive Committee.

Law enforcement in Vermont is not divided on the question of whether Vermont should legalize marijuana this session. The Vermont Chiefs of Police, Vermont Sheriffs Association, Vermont Police Association and the Chittenden County Law Enforcement Executive Committee join the Vermont State Police in their opposition to the current legislative effort to legalize marijuana (S.241). A few outliers in the Vermont law enforcement community do not qualify as a division among Vermont law enforcement.

Contrary to the opinion of certain politicians and bureaucrats, our opposition is based upon years of training and experience keeping our communities safe. We have legitimate public safety concerns. Science is on our side regarding the serious and lasting health consequences of marijuana use by people under the age of 25 and the danger posed by drivers and boat operators impaired due to marijuana. The Vermont Medical Society opposes legalization for this reason. Proponents of legalization do not dispute the serious health risks of marijuana when used by youth. No one, including the politicians and bureaucrats, argue against the danger posed by drivers or boat operators impaired due to marijuana.

The main question is whether legalization of marijuana, coupled with increased access through the sale of marijuana by retail stores in our communities, will result in increased use by youth and an increase in impaired drivers on our roadways or boat operators on our waterways. We think the answer is “Yes” and we base this conclusion upon our collective training and experience.

If S. 241 passes, Vermont will be the only state in the Northeast to legalize marijuana (New Hampshire and Maine recently rejected legalization efforts). The Rand report predicts a significant influx of visitors to Vermont for the purpose of purchasing marijuana. A large percentage of those visitors will be driving home and we predict it’s likely that a certain percentage will drive home impaired. It appears that Gov. Shumlin and legislators supporting the bill share some of our concerns regarding increased highway safety risks since the bill attempts (unsuccessfully) to bolster Vermont’s highway safety efforts.

Once Vermont enacts a legalization bill the genie is out of the bottle and cannot easily be returned. That’s the true lesson from Prohibition.

Under S.241, marijuana will be sold to adults through retail stores, likely located in the heart of our downtown areas. That type of access means more avenues of availability to our kids and young adults under 21. The stigma of marijuana use evaporates with legalization so more people will think it’s OK to try it out.

In Colorado, emergency room hospital visits due to marijuana use, highway crash data (marijuana involved) and youth use statistics trended upward since legalization. Proponents argue that these statistics are misleading. Our associations counter that at a minimum the raw data is concerning enough to justify waiting until we have enough data to know what happens to youth use and highway/waterway safety when you legalize.

Currently, Vermont law enforcement is not able to adequately enforce the threat posed by drug (including marijuana) impaired drivers and boat operators. We lack a scientifically and judicially accepted road/boat side test that can quickly establish probable cause that an operator is impaired due to marijuana. In addition, only a small percentage of Vermont law enforcement officers are ARIDE certified to identify operators impaired due to drugs such as marijuana. Identification by ARIDE certified officers is the first and most critical step in a robust highway/waterway safety program. The drug recognition experts (DREs) are also important, but you can’t use them if the officer making the stop is unable to detect an impaired driver – and more will if they are ARIDE certified. It will take years before a sufficient number of Vermont law enforcement officers are ARIDE certified, and with legalization, we will need more officers. Though the bill provides state agencies with resources such as money, personnel and equipment, it does not do the same for local agencies. For example, DPS Commissioner Flynn will receive additional troopers but your local municipalities will receive zero funding streams for hiring additional municipal police or boat patrol personnel.

Federal law prohibits the cultivation, possession and use of marijuana. Federal law treats those who aid, assist or abet cultivators and distributors as they would the principal offender. Under S.241, our state will actively be aiding and assisting in the cultivation and sale of marijuana by issuing licenses, overseeing quality control of the marijuana product, and collecting excise taxes and licensing fees. A Vermont Police Association representative recently asked U.S. Attorney Miller if he would grant immunity to the state and its employees. U.S. Attorney Miller said he would not agree to grant immunity. Nor would U.S. Attorney Miller agree to waive the right of the federal government to seize the money Vermont received from the taxes and licensing fees. Though U.S. Attorney Miller stated he would for now follow the Department of Justice (DOJ) prosecutorial guidelines (Cole Memorandum) which suggest no enforcement action, there are no

guarantees. In short, the U.S. Attorney or DOJ could decide to enforce the federal laws at any time and this is a real possibility with the election of a new president. Do we think that Vermont state employees will be arrested? No. But, we are bothered that the Legislature would pass a law that directs some of its employees to violate federal law.

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We choose to err on the side of protecting our youth and general public. We choose to not violate federal law.

We urge legislators to wait until the federal laws permit states to regulate marijuana. We urge legislators to wait until data from states that have legalized is overwhelmingly supportive of the proposition that legalization and regulation poses no increased public safety risks, especially on our public highways and waterways or to our youth.

In the meantime, we ask legislators to provide all of Vermont's law enforcement agencies, medical community (including substance abuse and mental health providers), and educational institutions with the resources needed to address Vermont's current substance abuse issue, and additional resources to provide information, treatment and support to our youth regarding marijuana use.

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