



*Laura Subin, Esq., director, Vermont Coalition to Regulate Marijuana
House Judiciary Committee Testimony*

Introduction and Background

Good Morning. My name is Laura Subin and I am the Director of the Vermont Coalition to Regulate Marijuana. I very much appreciate the opportunity to testify today.

Before I tell you about the Coalition, I want to give you a quick sense of my background. I am an attorney and I have been working with social service and human rights non-profit organizations for many, many years. I have been recognized as an expert in domestic violence and have testified as such in Vermont courts and before this legislature. I was the Executive Director of Women Helping Battered Women and I directed the Vermont Council on Domestic Violence. I have specialized in working with families where there is an overlap of domestic violence and substance abuse and with victims of domestic violence who were also criminal defendants. I have seen first hand the negative impact that marijuana prohibition has had on the some of most vulnerable Vermonters.

What is the Vermont Coalition to Regulate Marijuana?

[The Vermont Coalition to Regulate Marijuana](#) is a group of individuals and organizations that believe that marijuana prohibition is a failed policy that should be replaced with a responsible system of taxed and regulated sales to adults. Prominent members of our coalition include Governor Madeline Kunin, former Attorney General Kim Cheney and environmentalist Bill McKibben. The Coalition also includes a number of former legislators, members of city councils and leaders from across professional sectors including substance abuse treatment providers, educators, medical professionals, criminal justice professionals, veterans, farmers and business owners.

As the director of the Coalition, since the summer of 2014, I have been traveling around the state engaging people in dialogue around marijuana policy. I have spoken to hundreds of individuals, visited civic organizations and participated in marijuana forums from Brattleboro to the Northeast Kingdom. These efforts have made clear to me what polls have consistently indicated. Most of the Vermonters I talk to recognize that prohibition is not working. They know from experience that the effects of marijuana are mild compared to alcohol and they recognize that a legal marijuana industry would create economic opportunity.

I have also heard concerns about marijuana. Concerns that I know that you have also been hearing. The Coalition does not stand for the premise that marijuana is a harmless substance, or that marijuana tax revenue is somehow going to solve all of Vermont's problems. Instead, members share the belief that any harms associated with marijuana consumption can best be managed in a regulated environment, and that targeted tax revenues can help Vermont do a much better job than it is currently doing with drug education, prevention, and treatment.

Marijuana policy reform is a civil rights issue.

We are proud of the Coalition that we have built. I think that it is also important, though, to make you aware of the many who have not joined the Coalition, who confirmed that they would have had they not feared for their jobs or reputations. This includes members of the professional associations that have or will testify before you in opposition to this legislation. A culture of fear undermines the public discourse on marijuana policy. People voicing support for the legal status quo are not afraid but there is very real fear, and real potential for professional ramifications, in standing up in favor of marijuana legalization.

As you have already heard, stigmatizing cannabis users – even through the language “marijuana” is ingrained in the culture of prohibition. Nowhere can this be seen more clearly than in the discrepancies between marijuana and alcohol laws. There is virtual unanimity among experts that the public health and public safety risks associated with alcohol far exceed those related to marijuana. Yet, alcohol is not only legal and acceptable but- in regard to craft and artisanal brewing, including home brewing- it is also regularly celebrated as part of the Vermont brand.

I believe this should concern all of us. Treating the familiar and mainstream as right and an alternative as wrong is the endorsement of one lifestyle choice over another. Such practices, especially when promulgated pervasively through media and other public messaging, are alarming- whether they impact who adults can marry, what they can consume or any other decision they have the right to make in the privacy of their own homes. Absent a compelling state interest- and clearly one does not exist considering the relative harms of alcohol and marijuana- when biased judgments infiltrate our laws and other aspects of public policy, our civil rights are violated. These fundamental concerns are what have brought many, including the ACLU of VT, to join our Coalition.

Marijuana policy reform is a human rights issue.

I am also concerned about another set of voices from whom I am afraid you may be hearing even less. Members of poor, underserved communities, often communities of color, are among those least likely to successfully access their legislative representatives. Yet, they are your constituents that are most likely to be impacted negatively by the failed policies of marijuana prohibition.

In 2013 the American Civil Liberties Union published a report titled, [The War on Marijuana in Black and White](#), which documented racial disparities in the enforcement of marijuana laws across the country. The report analyzed marijuana possession arrest rates

in the year 2010. It found that, on average in the United States, African Americans- relative to their percentage of the population and in spite of reporting nearly identical marijuana use rates- were being arrested more than three times as often as whites. In Vermont that disparity rose to 4.4 times as often on average and to almost 17 times as often in Rutland, the county with the largest disparity.

This problem did not go away with decriminalization. The year after that legislation passed over 1500 citations for marijuana violations were issued and I believe there have been even more in subsequent years. These numbers correspond with reports that some police departments are still considering marijuana enforcement a priority¹ and demonstrate that decriminalization leaves plenty of room for discrimination.

Decriminalization also disproportionately impacts low income Vermonters. While the \$200-\$500 fine that generally accompanies a marijuana citation is a slap on the wrist to some, for people making minimum wage- and this is a finding contained within the Rand Report- \$200 is the equivalent of a week's worth of wages.² We hear from our members about other economic injustices resulting from current marijuana policies. These include patients who qualify for Vermont's medical marijuana program but who cannot afford to pay for the medicine they need, even with sliding scale accommodations.

Current marijuana policy also fails underserved populations in other ways that may not be immediately apparent. For example, marijuana prohibition has uniquely negative impacts on victims of domestic violence. An arrest, or even a citation, for marijuana possession can put a battered mother at risk of losing her children.³ Many victims are reluctant to seek protection from violence because of the very real possibility that they will be penalized if officers come to their homes and find marijuana- even if that marijuana actually belongs to the abuser. Marijuana violations also continue to have ramifications for public housing and other public benefits. Human rights organizations like Vermonters for Criminal Justice Reform and the Peace and Justice Center have joined the Coalition to help bring the suffering caused by marijuana prohibition to the forefront of the legalization debate.

Recommendations.

Vermont is Ready!

I have heard in a number of contexts that Vermont may not be ready to act on legalization. I believe that this is misguided. As was already mentioned in this committee, many years could pass and advocates on both sides of the issue might continue to debate the implications of the data that emerges. Waiting for that data is not a valid reason to delay addressing the known failures, already documented in seventy years of evidence, of our current marijuana policy. As stated in an online petition signed by over a dozen clergy members of the Coalition: "What we punish people for and how we punish them

¹ "Pot Decriminalization Results in Uneven Enforcement" WCAX, August 2014

² "Considering Marijuana Legalization: Insights for Vermont and Other Jurisdictions" p.42

³ Department For Children and Families, Family Services Manual

are moral questions. When a policy that involves punishment fails to meet its objectives and causes harm to those it is intended to protect, we believe we have a moral obligation to support change.”

S. 241 is a logical next step in Vermont’s efforts to reform its marijuana laws, an effort that began over a decade ago when the legislature adopted the medical marijuana law. We have moved incrementally and in pace, in my opinion, with what has been referred to here as a cultural paradigm shift. We have experience to draw on from the states that have acted before Vermont and strong indicators that neighboring states and Canada are also moving down the path towards reform. The current version of the bill affords us even more time for that shift to take place, delaying implementation of adult use sales until 2018.

There would also be important advantages to becoming a leader on marijuana regulation. Vermont can develop a model and generate best practices that other states will emulate. In that way, adopting S. 241, a careful, moderate, phased- in approach, would enhance public health and safety not only in Vermont but also on a broader scale.

Home Cultivation

By supporting S. 241, you have the opportunity to correct some of the harms that have occurred as a result of marijuana criminalization right away, while taking more time to create the parameters for a newly legal industry. In debating those parameters I hope that this committee will give consideration to home cultivation. At a minimum, the House, like the Senate, should support prioritizing consideration of home cultivation by the study committee envisioned by S.241 so that the commission could make, and the legislature could review, recommendations for home cultivation as soon as possible and in advance of retail sales. In addition to the important equity issues it would address, on a purely pragmatic level, without a home cultivation provision, efforts to eradicate the underground market will be less successful.

Fair Access

Members of the Coalition also want to ensure that legislation that passes allows access to an emerging legal marijuana industry for all qualified Vermonters, not merely to investors who happen to have the right combination of political connections and deep pockets. I hope the House will continue to analyze the fee structure and the number of cultivation licenses. Small marijuana cultivators have indicated that they would readily pay fees and taxes to move out from the shadow of criminality. They will only be able to do that, however, if there is affordable access to licenses.

Reduced Criminal Penalties

I hope that you will also consider decriminalizing or at least substantially reducing the penalties for possessing marijuana in excess of the possession limit in cases where there is no sale and no intent to distribute. At the very least more in depth review of current criminal marijuana possession penalties should be undertaken. I believe that this would best support the goals of genuine criminal justice reform and would reduce the burden on law enforcement officers.

Honest Education for kids.

Finally, as the mother of three school age children, I am encouraged that a substantial portion of the revenue from S. 241 is targeted for youth prevention and treatment. I hope those strategies will include honest education about all substances that will help young people make smarter, safer choices. I am also encouraged that marijuana revenue will be allocated to keep our roads and communities safer.

Thank you again for this opportunity and for all of the hard work you are putting into your consideration of this important topic.