



PW!VT is a network of coalitions and community efforts across the state VT that work to decrease the prevalence of tobacco use, drug use, underage drinking and high-risk drinking in Vermont, especially among youth and young adults.

March 31, 2016

Hon. Maxine Grad, Chair, House Judiciary Committee
Hon. Ann Pugh, Chair, House Human Services Committee
Vermont State House
115 State Street Montpelier, VT 05633

Dear Representatives Grad and Pugh and committee members:

Thank you for the opportunity to speak to our concerns with S.241, a bill which proposes to legalize recreational marijuana in Vermont.

I am a mom of a teenage son, business owner and work part-time as coordinator of PW!VT. I have worked with Prevention Works! VT for 4 years and with a community based substance abuse prevention coalition for nearly 15 years before that – both groups have a mission of substance abuse prevention. In addition I am a board member of the Vermont Public Health Association and served on the Health Impact Assessment of Marijuana stakeholder group.

You know better than most that substance abuse is among the most costly health problems in the United States and VT. In fact, Vermont is among state “leaders” in burden* of drugs on state programs. We rank 6th by percentage of state budget and 4th per capita in 2009. ¹

So, I fully appreciate the sentiment behind this bill to try to fix the substance abuse problem and decrease use among young people. But S.241 does not do an adequate job of addressing the most important aspects of legalizing a new mind-altering substance.

Before I share with you why my colleagues & I feel that way, I would like to reaffirm two facts.

First, while youth marijuana use seems to be pervasive, we have seen a steady **decline in youth marijuana use since the 1990s.** ²

To support further declines in youth use rates, the state must **build a solid, evidence-based infrastructure aimed at ADULTS AND YOUTH to prevent marijuana use BEFORE embarking on a new course with marijuana.**

Second, despite the fact that we have specific data from the VT Youth Risk Behavior survey (VT YRBS) there seems to be a contest lately to determine which is easier for youth to get - regulated alcohol or unregulated marijuana. I ask you to consider actual data, not anecdotal interviews with random youth. In addition to the YRBS data that clearly shows that youth find alcohol more accessible than marijuana, actual youth use rates corroborate the statistics.²

It is clear that youth have easier access to regulated alcohol than they do unregulated marijuana.

In my position with PW!VT I work with the 24 community based substance abuse coalitions in the state. We understand and appreciate that S.241 provides funds in advance for prevention efforts, but every one of those local coordinators will agree that prevention takes time. It has taken nearly 15 years [2001-2015] to lower the teen alcohol use rate from 42% to its current 30% in VT. Research confirms that it is best to begin prevention programs about 15 years before it is clear that there is a serious drug problem that should be, or should have been prevented.³

The timing of this bill gives us 3 months lead time from the implementation deadline for prevention programs of September 2017 and bill implementation in January 2018.

We need to fund a comprehensive statewide prevention initiative that works to reduce marijuana youth use rates to below 10%. Then we might begin to consider making it legal.

As previous witnesses have testified to the Judiciary Committee the time may come for Vermont and the United States to change the legal status of marijuana, but that time is not now. This bill is not adequate to meet the challenges it will create.

I'd like to share the reasons why VTs Prevention leaders feel that S.241 is not a good bill for Vermont and Vermonters.

- Any marijuana regulatory framework should, at the very least, implement the same strategies we know work in alcohol and tobacco prevention.

The handout I provided to you – PW!VT testimony⁴ - I originally created for the Senate Government Operations Committee last year. In it I present the lessons we have learned from tobacco and alcohol regulation and the infrastructure we likely need to build to address a new landscape with legal marijuana.

Some of these provisions are provided for in the bill, but there is much missing. We have learned a lot from alcohol and tobacco regulation and prevention – so we should not shortchange ourselves by not applying that learning to this bill.

Dr. Chen showed you earlier the success that we have experienced with tobacco control and prevention, but please keep in mind that regulation was just one part of that success. We had lots of industry provided funds that, thankfully, Vermont legislators spent well. Also, the Tobacco Master Settlement was a punishment to the industry that required their compliance.

For those of you who remember, in the 1990s VT had an abysmal rate of underage alcohol use and was #1 per capita for youth killed in highway crashes involving alcohol. This state rallied and built a stronger system of prevention, intervention and enforcement to lower those numbers and save lives. This was also a success story.

But now, as we debate legalizing marijuana, we are seeing deep cuts to the very programs that decreased underage and high-risk drinking -- cuts in enforcement, & education at the Department of Liquor Control, elimination of local START teams (Stop Teen Alcohol Related Tragedies) that helped curtail underage drinking parties, fewer Substance Abuse Prevention counselors in schools, coalitions losing staff, schools not able to fully address substance abuse with their students (1/2 semester of health is all that most high school students get currently), and elimination of the Vermont Teen Leadership Safety Program. And the cuts being made to our successful tobacco control program tell the same story.

- Not to contradict Dr. Chen, but we learned in the Health Impact Assessment process that the data clearly show that marijuana should be restricted to anyone under the age of 25.⁵

- The goal of the lead regulatory agency should be to develop regulations for marijuana in a **public health** rather than business or public safety framework, by **preventing or delaying first use, reducing consumption, and encouraging marijuana users to quit**, just like our tobacco control program does, for youth **AND** adults.

We compare marijuana legalization to the tax & regulate structure of alcohol and tobacco, but, we have worked diligently to make sure that tobacco and alcohol regulation have a public health goal.

The public health goal of tobacco regulation is to eliminate use by youth & adults.

The public health goal of alcohol regulation is to limit underage drinking and adult high-risk drinking.

Again, a public health goal for marijuana would be **preventing or delaying first use, reducing consumption, and encouraging marijuana users to quit.**

Our experience with alcohol and tobacco control has taught us the importance of limiting location and density of outlets.

- Licensing restrictions should control retailer density and require that licensed facilities to be prohibited within 1,000 feet of not just schools, but parks, libraries, pharmacies or health care facilities, and other locations serving youth and young adults, and be required to be at least 1,000 feet from other retail licensed locations to avoid youth exposure to storefront displays and advertising.
- The definition of a “school” should be extended to include educational facilities where at least 75% of the population are younger than 21 (or 25) years old, including colleges and universities.
- Since marijuana is a psychoactive drug, second hand smoke exposure is a legitimate concern. How will we prevent infants and children being exposed to second hand smoke in multi-unit housing or if their caretakers choose to use?
- One major issue of concern voiced by policy makers and the public in one area of VT is that this bill violates federal law and puts state employees and others in direct violation of federal law.

And then there is **advertising**, a public health nightmare.

- Section 4507 regulates advertising but permits it, requiring that no claims regarding a therapeutic benefit be made, but the fact that we have marijuana dispensaries to distribute "marijuana for the relief of symptoms” will create confusion, regardless of advertising claims.
- The goal should be to minimize exposure to marijuana marketing and advertising among the general population in order to:
 - decrease the number of nonusers or former users from initiating use, and to
 - increase the number of current users to quit.
- Advertising and marketing statements and claims need to be evidence-based and approved by the Department of Health.

And when do we agree to set the standards of which evidence is going to serve as our measure?

Response to the Health Impact Assessment demonstrates that there is not agreement on who to trust to provide honest and even-handed data to inform these efforts.

- There is no provision about advertising warnings of the potential harms of using marijuana while pregnant or breastfeeding.
- Advertising should be limited to the interior of licensed, adult-only marijuana retail stores.
- Tax deductions for advertising and marketing by marijuana businesses should not be allowed.
- Opinions differ on whether such marketing restrictions would or could withstand legal challenges in the United States. So in addition to the funds requested for FY17, do we need to establish a litigation fund to protect VT against industry lawsuits (similar to the GMO bill)? Colorado was being sued under the Commercial Free Speech Doctrine so that marijuana businesses did not have to adhere to any advertising restrictions.

And keep in mind that these enterprises will be driven by profit and shareholders' interests, not concern for public health or community values. And as these companies grow, they'll begin to wield considerable political power. Our alcohol model demonstrates how a "legal" industry with political power makes even a tiny tax increase impossible.

- Local governments should be allowed to exercise, within their jurisdictions, as much additional control as they desire over regulating the retail marijuana industry, including cultivation, not just establishments.
- This is new territory for the prevention field, and there is little guidance for adapting current prevention programs or creating a new science-based, effective prevention campaign for a legal system. This is an area where research is sorely needed, and we are not ready to implement any time soon.
- We'd like legislators to consider adding sunset provisions that would allow a change of course without getting locked into a particular regime. The state of Illinois built such a provision into its medical marijuana law, enacted in 2013: if the state does not renew or create a new law by the end of 2017, the program will cease to exist.
- What funds will be available to **local** municipalities, with very limited annual budgets, for prevention and enforcement?
- What mechanism would ensure this funding was protected and used for the intended purposes over the long-term?

- Currently, the Department of Liquor Control is only required to do compliance checks of alcohol licensees every 3 years. Will the DPS do more compliance checks than that? Will there be an equivalent training to the Responsible Retailer Training to ensure staff is adequately trained to prevent underage sales (which DLC is reducing due to cuts in funding and staff). If so, will there be on-site training and will they be responsible for not selling to someone appearing under the influence of marijuana?

- There are references in the bill to “responsible use” but there is no definition provided. When one half VT young adults who report using marijuana, also report that they use daily or almost daily⁶– that is alarming and not what most people consider responsible or recreational use.

I know that many of the points I raised are considerations for rule making and those who design the procedures, but I raised them to illustrate how many things we have not yet considered and how unrealistic it is to expect them to all be accomplished on or before March 15, 2017 and be ready to implement on or before September 15, 2017 in preparation for a January 2018 launch of this policy.

Another reason for delaying any movement toward legalization and regulation in the state is the emerging body of evidence regarding the dangerous effect of high-potency marijuana, particularly on young people and the difficulty in regulating THC content.

-One such study that has me very concerned is an epigenetic study released in January 2014 from Mount Sinai Medical Center.⁷ Researchers found that teen marijuana use may have repercussions in unexposed progeny. This rodent study found that parental use of marijuana/THC was linked to molecular and neurobiological disturbances and increased motivation to get drugs.

Is it possible that marijuana use is fueling our current opiate abuse and misuse problem? We can't know that yet, but this study indicates a troubling unintended consequence marijuana legalization could have and we must learn more before increasing access and use of marijuana.

And speaking of research, we have heard in these hearings that “Federal policy undermines research and reasoned discussion.” According to one marijuana research expert there are ~22,000 published manuscripts on marijuana, cannabis, or cannabinoids in the scientific literature as cited by PubMed. And the rate and number are increasing rapidly.

Currently there are:

-324 research grants issued by the U.S. Government using the search term "marijuana".

-542 clinical trials listed in clinical trials.gov using the search term "marijuana".

To claim that clinical research is stifled by the government is not supported by fact.

An ounce of prevention... is a lot of work, especially when we do not yet know enough about how to regulate marijuana. We have an unprecedented opportunity **and responsibility** to build a strong prevention system that speaks to all Vermonters, not just youth, BEFORE we legalize a new drug industry.

As I stated earlier let's work together to decrease youth marijuana use rates to below 10%, then we might begin to consider making it legal.

Thank you for the opportunity to provide testimony on this pending legislation. Prevention Works! VT looks forward to working with you on this important issue.

Sincerely,

Lori Augustyniak
Coordinator

Sources cited:

¹ Shoveling Up II: The Impact of Substance Abuse on Federal, State and Local Budgets, 2009. The National Center on Addiction and Substance Abuse at Columbia University.

*burden = justice, education, health, child and family assistance, mental health and developmental disabilities, public safety and state workforce

² Handout titled "Alcohol and Marijuana in VT"

<http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/House%20Judiciary/Bills/S.241/Witness%20testimony/S.241~Lori%20Augustyniak~Alcohol%20and%20Marijuana%20in%20Vermont~3-31-2016.pdf>

³ An Ounce of Prevention. A Pound of Uncertainty. The Cost-Effectiveness of School-Based Drug Prevention Programs. 1999. Caulkins, Rydell, Everingham, Chiesa & Bushway.

⁴ Handout titled "Prevention and Marijuana"

<http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/House%20Judiciary/Bills/S.241/Witness%20testimony/S.241~Lori%20Augustyniak~Prevention%20and%20Marijuana~3-31-2016.pdf>

⁵ Health Impact Assessment: Marijuana Regulation in Vermont, VT Department of Health, January 2016

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http://healthvermont.gov/pubs/healthassessments/documents/HIA_marijuana_regulation_in_vermont_201601.pdf

⁶ Young Adult Survey 2014 administered by the VDH

http://www.pire.org/documents/Vermont_PFS_Eval/VT_PFS_YAS2014_Summary_Report.pdf

⁷ Szutorisz H, Dinieri JA, Sweet E, Egervari G, Michaelides M, Carter JM, Ren Y, Miller ML, Blitzer RD, Hurd YL. Parental THC Exposure Leads to Compulsive Heroin-Seeking and Altered Striatal Synaptic Plasticity in the Subsequent Generation. *Neuropsychopharmacology*. 2014 May;39(6):1315-23.

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