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“We change laws.”

Memo

To: Members of the Senate Gov. Ops. Committee
From: Matt Simon
Date: October 29, 2015
Re: Marijuana Regulation Legislation

Below are suggestions for legislative topics we think are important to address as the committee begins drafting a bill which would regulate the sale of marijuana to adults in Vermont. We look forward to seeing the work of the Committee and would be happy to contribute our thoughts on any proposal which emerges.

Allow Adults to Possess and Securely Grow Limited Amounts of Cannabis

- We recommend that adults who are 21 or older should be allowed to possess and share marijuana paraphernalia and up to one ounce of marijuana.
- We are unaware of any cap on the amount of alcohol adults can possess, but a modest cap on cannabis may be prudent due to concerns about large scale purchases and diversion to other states. One ounce is in line with the other adult use laws.
- Three of the four states with adult use cannabis laws allow adults 21 and older to cultivate a modest amount of cannabis for their own use, as does Washington, D.C.. This is similar to how alcohol is regulated — every state now allows home brewing of beer.
- We recommend allowing adults to cultivate a limited supply of cannabis plants at a secure, indoor location and to possess the cannabis grown from those plants at the same location.
- For home cultivators who exceed cultivation limits by a modest amount, we recommend considering civil penalties as an alternative to felony penalties. For example, the proposed Massachusetts ballot initiative calls for civil penalties for possessing more than one ounce (up to two ounces) and cultivating 7-12 plants (above which cultivation remains a felony).
- We recommend that convictions for those who were 21 or older for possession of up to one ounce of marijuana or possession of paraphernalia should be expunged.
- Allowing adult use and cultivation could be the first step in a responsible, phased-in approach to implementation of regulating marijuana for adults' use.

License and Regulate Marijuana-Related Businesses

- We recommend five categories of licensees: Marijuana retailers, marijuana lounges, cultivators, product manufacturers, and testing laboratories. This allows for specialization in one type of marijuana business, as is possible for all or virtually all other products. It also makes it easier for small businesses to realize

opportunities by allowing them to only engage in the area of business they are best suited for, such as agriculture or food manufacturing.

- We recommend that marijuana and marijuana products should only be available for sale at marijuana-only retail stores, which would separate marijuana sales not only from illicit drug sales, but also from alcohol sales.
- We recommend that a governmental agency should develop comprehensive rules on marijuana establishments, including governing their security, recordkeeping, oversight, laboratory testing, and sanitation. It should also restrict advertising and signage.
- We recommend that the agency begin accepting applications for licenses by March 15, 2017, with the first licenses issued by September 15, 2017.
- We recommend that existing dispensaries should be granted preference when applying for licenses. For a limited period of time, they could operate as Vermont's first retailers, allowing for a smoother and quicker transition from the illicit market. We believe this makes sense because the dispensaries are already abiding by regulations and have already been successful at meeting licensing requirements.
- We recommend the agency begin accepting additional applications in January, 2018, and we propose allowing a fixed number of additional retailers, with flexibility to add more based on consumer demand.
- We recommend that geographic distribution be considered when accepting applications.
- Each licensee could be required to take an enforcement seminar every three years and each staffer could be required to complete a training program at least every two years.

Local Control

- Localities could be allowed to regulate or even ban marijuana businesses within their borders.
- Lounges — which would entail on-site consumption — could be allowed only in those localities that explicitly opt to allow them.
- In addition to banning or regulating each kind of business, localities could limit their numbers or require the applicant to also obtain a local license or permit.

Education and Labeling

- We recommend that retailers and lounges be required to display a poster explaining potential dangers, methods of administering marijuana, and symptoms of problematic use.
- We recommend that all marijuana-infused products sold should be required to include labels with the potency of marijuana, a produced-on date, and warnings, including ones about keeping marijuana away from children and marijuana's effect on driving.
- We recommend that edibles should be sold in opaque, child-resistant packaging containing a single serving. Labels should be required to explain how long it

would take to go into effect. When practicable, edibles could include a symbol indicating it contains marijuana.

- Edibles could be the final step in a responsible, phased-in approach. In particular, Vermont could learn from Washington state's conservative approach to edibles — the state requires that all edible products be specifically approved by state regulators, and that products do not appeal to children (no gummy bears or lollipops, etc.)

Taxation and Fees

- Marijuana could be taxed when it is transferred from the grower to any other medical marijuana businesses at a rate of \$40/ounce for flowers, \$15/ounce for each other part of marijuana (leaves or trim), and \$25 per seedling.
- We recommend that rates should be adjustable for inflation.
- Application fees could be \$2,000 for each business type.
- Tax revenue could include allocations to the following:
 - Youth substance abuse education and prevention;
 - Treatment of substance abuse;
 - Law enforcement.
- Annual fees for licensing could be \$5,000 for labs and product manufacturers; \$1,000 to \$50,000 for cultivators, depending on the amount cultivated and whether cultivation is indoors; \$10,000 for lounges; and \$30,000 for retailers.

Limitations

- Landlords could prohibit the growing or smoking of marijuana at their rentals.
- Employers would not have to accommodate employees under the influence, nor their possession of marijuana at work.

Penalties for Violations

- Smoking marijuana in public could be punishable by a civil fine of up to \$150.
- The penalties for using a fake ID or otherwise misrepresenting one's age to try to buy marijuana could be the same as those for using a fake ID to buy alcohol.
- Growing marijuana in a location that is not secure should carry a modest but not token penalty, such as a civil fine of up to \$500 for a first offense and possible jail time for a second offense.
- The department should be allowed to suspend or revoke any business registration for a serious or repeated violation of the law or rules. It could also impose an administrative penalty of up to \$2,500.