

Summary of S.241 as amended by Senate Committees on Judiciary and Finance

February 15, 2016

Findings and Intent

Any efforts to legalize and regulate marijuana must comply with the 2013 memo from Deputy Attorney General James M. Cole regarding guidance to states that elect to legalize marijuana in some form, as well as the principles articulated in the Governor's 2016 State of the State.

Vermont seeks to take a new comprehensive approach to marijuana use and abuse that incorporates prevention, education, regulation, treatment, and law enforcement and results in a net reduction in public harm and an overall improvement in public safety.

Revenue generated by the act shall be allotted in the following formula:

1. 25 percent to prevention of substance abuse;
2. 25 percent to treatment of substance abuse;
3. 25 percent to law enforcement and criminal justice agencies for efforts to combat the illegal drug trade and drugged driving;
4. 25 percent to the General Fund for the implementation, administration, and enforcement of this act with any remaining funds allocated equally among the first three priorities.

Prevention

Directs the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, and the Governor's Highway Safety Program, to develop and administer an education and prevention program focused on use of marijuana by youth under 25 years of age. DOH must adopt rules on or before March 15, 2017 and implement the program on or before September 15, 2017.

The Agency of Transportation, through its Vermont Governor's Highway Safety Program, is directed to expand its public education and prevention campaign on "drunk driving" to "impaired driving" which shall include "drugged driving."

Adult Use; Legal Possession; Civil and Criminal Penalties

The act removes current civil penalties for possession of one ounce or less of marijuana by a person 21 years of age or older.

Cultivation of any marijuana without a license is not permitted and will remain a criminal offense as under current law.

Criminal penalties remain for possession of over an ounce of marijuana and for dispensing or selling marijuana without a license.

Consuming marijuana in a public place is prohibited and violators subject to a civil ticket.

Employers and landlords are not required to accommodate marijuana possession or use and the act does not make any changes to employment law or landlord-tenant law.

Unlicensed chemical extraction to produce marijuana concentrate will be prohibited and violators subject to criminal penalties.

Youth

Civil and criminal penalties remain for possession of marijuana by a person under 21 years of age. Youth are referred to Court Diversion and successful completion results in no record of the event.

Civil and criminal penalties are established for furnishing or selling marijuana to a person under 21 years of age.

Persons under 21 years of age are prohibited from being on the premises of a marijuana establishment.

Advertising and labeling of marijuana may not be designed to appeal to youth.

Marijuana establishments and outdoor advertising of such establishments are prohibited from being located within 1,000 feet of a school or child care center.

Distribution of handbills featuring marijuana establishments or products is prohibited.

The Department of Health will monitor marijuana use by youth and collect data in a manner that enables future studies.

Marijuana Establishments

Marijuana establishments will be regulated by the Department of Public Safety, which is primarily responsible for adopting rules to implement and enforce the provisions of the act. DPS will share authority with the Agency of Agriculture, Food, and Markets regarding regulation of cultivators and testing laboratories.

Three types of licenses will be available—cultivator, retailer, and testing laboratory. A person may only hold one license, with the exception of an existing dispensary which may hold one of each.

An applicant must be a Vermont resident 21 years of age or older and subject to a criminal background check. A financier must also be a Vermont resident and subject to a criminal background check.

From 6/1/17 to 6/30/18, a maximum of 10 small (up to 5,000 sf) cultivator licenses and 5 large (5,001–10,000 sf) cultivator licenses, 5 testing lab licenses, and 15 retailer licenses may be issued. From 7/1/18 to 6/30/19, an additional 10 small (up to 5,000 sf) cultivator licenses and 5 large (5,001–10,000 sf) cultivator licenses, 5 testing lab licenses, and 15 retailer licenses may be issued. Total issued prior to 7/1/19 = 30 cultivator, 10 testing lab, 30 retailer licenses.

Only marijuana flowers may be sold to the public and marijuana may not be packaged with other products for sale. A Vermont resident may purchase a maximum of one-half ounce in a single daily transaction and a nonresident may purchase no more than one-quarter ounce in a single daily transaction.

Monies from license application fees, annual license fees, and civil penalties from marijuana establishments would be allocated to the Department of Public Safety for implementation, administration, and enforcement of the provisions relating to marijuana establishments.

Application fees:

Small cultivator = \$15,000
Large cultivator = \$25,000
Retailer = \$25,000
Testing laboratory = \$500

Annual and renewal fees:

Small cultivator = \$15,000
Large cultivator = \$25,000
Retailer = \$25,000
Testing laboratory = \$2,500

Administrative fees range from \$100 – \$1,000

Retail marijuana will be taxed at 25%. Medical marijuana will continue to be untaxed. Dispensaries and marijuana establishments will be permitted to deduct expenses at the State level that are currently prohibited by federal law.

Local Government

A municipality would retain any current authority to issue a civil ordinance to provide additional penalties for marijuana in a public place.

Voters may prohibit the operation of a marijuana establishment within a municipality by majority vote at an annual or special meeting. The ban would stay in effect until repealed by the voters.

A municipality could establish a local board of marijuana control for the purpose of issuing permits to marijuana establishments located in the municipality.

A municipality could regulate marijuana establishments through local ordinances or land use bylaws or require a marijuana establishment to obtain a license or permit from the municipality prior to beginning operations.

Medical Marijuana Dispensaries

The act provides an advantage in obtaining a commercial cultivator, retailer, or testing license, or all, and may be vertically integrated.

Dispensaries may continue to provide edible marijuana products to patients provided they are in child-resistant packaging.

Dispensaries may provide marijuana samples to a Vermont academic institution for research purposes.

Dispensaries would no longer be required to operate as a nonprofits.

Impaired driving

Funding is provided for training an additional 10 law enforcement officers as drug recognition experts.

An additional 25 new State Troopers will be added over the next three years.

The Agency of Transportation, through its Vermont Governor's Highway Safety Program, is directed to expand its public education and prevention campaign on "drunk driving" to "impaired driving" which shall include "drugged driving."

Marijuana is added to Vermont's "open container" law that prohibits use or possession of an open container of alcohol in a motor vehicle.

The Commissioner of Public Safety is required to report annually to the committees of jurisdiction regarding the previous year's impaired driving data in Vermont, the latest information regarding best practices on prevention and enforcement, and his or her recommendations for legislative action.

Marijuana Program Review Commission

Established for three years for the purpose of facilitating efficient and lawful implementation of the act and examination of issues important to the future of marijuana regulation in Vermont.

Commission members include legislators, members of the public appointed by the Governor, and the Attorney General or designee, and operates until July 1, 2019.

Commission duties include:

- (1) collecting information about the implementation, operation, and effect of this act from members of the public, State agencies, and private and public sector businesses and organizations;
- (2) communicating with other states that have legalized marijuana and monitoring those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;
- (3) considering the issue of personal cultivation of a small number of marijuana plants and whether Vermont could permit home grown 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;
- (4) examining the issue of marijuana concentrates and edible marijuana products and whether Vermont safely can allow and regulate their manufacture and sale and, if so, how;
- (5) keeping updated on the latest information in Vermont and other jurisdictions regarding the prevention and detection of drugged driving as it relates to marijuana;
- (6) studying the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;
- (7) examining whether Vermont should allow additional types of marijuana establishment licenses, including a processor license and product manufacturer license;
- (8) reviewing the statutes and rules for the therapeutic marijuana program and dispensaries and determining whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries;
- (9) monitoring supply and demand of marijuana cultivated and sold pursuant to the act to assist with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;
- (10) monitoring the extent to which marijuana is accessed through both the legal and illegal market by persons under 21 years of age;
- (11) identifying strategies for preventing youth from using marijuana;
- (12) identifying academic and scientific research, including longitudinal research questions, that when completed may assist policymakers in developing marijuana policy;
- (13) considering whether to create a local revenue stream which may include a local option excise tax on marijuana sales or municipally assessed fees; and
- (14) reporting any recommendations to the General Assembly and the Governor, as needed.

General Timeline

Upon passage	Department of Public Safety (DPS), Agency of Agriculture, Food, and Markets (Agency), and Department of Health (DOH) begin rulemaking process
8/1/16	Marijuana Program Review Commission begins meeting
3/15/17	DPS, Agency, and DOH adopt final rules
4/15/17–5/15/17	Cultivator and testing laboratory application period
5/15/17–6/15/17	Retailer application period
6/15/17	DPS issues first cultivator (15) and testing laboratory licenses (5)
9/15/17	DPS issues first retailer licenses (15) DOH implements education and prevention program
1/2/18	Licensed retail stores may sell marijuana to persons 21 years or older
1/2/18	No civil or criminal penalties for possession of one ounce or less of marijuana by a person 21 years or older
7/1/18-7/1/19	DPS may issue additional cultivator (15), testing lab (5), and retailer (15) licenses
7/1/19	DPS may issue licenses in size and number at discretion Commission ends