

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred Senate Bill No. 241  
3 entitled “An act relating to personal possession and cultivation of cannabis and  
4 the regulation of commercial cannabis establishments” respectfully reports that  
5 it has considered the same and recommends that the bill be amended as  
6 follows:

7 First: By striking out Sec. 2 in its entirety and inserting in lieu thereof the  
8 following:

9 Sec. 2. MARIJUANA YOUTH EDUCATION AND PREVENTION

10 (a)(1) Relying on lessons learned from tobacco and alcohol prevention  
11 efforts, the Department of Health, in collaboration with the Department of  
12 Public Safety, the Agency of Education, and the Governor’s Highway Safety  
13 Program, shall develop and administer an education and prevention program  
14 focused on use of marijuana by youth under 25 years of age. In so doing, the  
15 Department shall consider at least the following:

16 (A) Community- and school-based youth and family-focused  
17 prevention initiatives that strive to:

18 (i) expand the number of school-based grants for substance abuse  
19 services to enable each Supervisory Union to develop and implement a plan for  
20 comprehensive substance abuse prevention education in a flexible manner that  
21 ensures the needs of individual communities are addressed;

1                   (ii) improve the Screening, Brief Intervention and Referral to  
2 Treatment (SBIRT) practice model for professionals serving youth in schools  
3 and other settings; and

4                   (iii) expand family education programs.

5                   (B) An informational and counter-marketing campaign using a public  
6 website, printed materials, mass and social media, and advertisements for the  
7 purpose of preventing underage marijuana use.

8                   (C) Education for parents and health care providers to encourage  
9 screening for substance use disorders and other related risks.

10                  (D) Expansion of the use of SBIRT among the State’s pediatric  
11 practices and school-based health centers.

12                  (2) On or before March 15, 2017, the Department shall adopt rules to  
13 implement the education and prevention program described in subsection (a) of  
14 this section.

15                  (b) The Department shall include questions in its biannual Youth Risk  
16 Behavior Survey to monitor the use of marijuana by youth in Vermont and to  
17 understand the source of marijuana used by this population.

18                  (c) Any data collected by the Department on the use of marijuana by youth  
19 shall be maintained and organized in a manner that enables the pursuit of  
20 future longitudinal studies.

1        Second: By adding a Sec. 8a to read as follows: (effective July 1, 2018)

2        Sec. 8a. 18 V.S.A. § 4230 is amended to read:

3        § 4230. MARIJUANA

4        (a) Possession and cultivation.

5            (1)(A) No person shall knowingly and unlawfully possess more than one  
6        ounce of marijuana or more than five grams of hashish ~~or cultivate marijuana.~~  
7        For a first offense under this subdivision (A), a person shall be provided the  
8        opportunity to participate in the Court Diversion Program unless the prosecutor  
9        states on the record why a referral to the Court Diversion Program would not  
10       serve the ends of justice. A person convicted of a first offense under this  
11       subdivision shall be imprisoned not more than six months or fined not more  
12       than \$500.00, or both.

13            (B) A person convicted of a second or subsequent offense of  
14        knowingly and unlawfully possessing more than one ounce of marijuana or  
15        more than five grams of hashish ~~or cultivating marijuana~~ shall be imprisoned  
16        not more than two years or fined not more than \$2,000.00, or both.

17            (C) Upon an adjudication of guilt for a first or second offense under  
18        this subdivision, the court may defer sentencing as provided in 13 V.S.A.  
19        § 7041 except that the court may in its discretion defer sentence without the  
20        filing of a presentence investigation report and except that sentence may be  
21        imposed at any time within two years from and after the date of entry of

1 deferment. The court may, prior to sentencing, order that the defendant submit  
2 to a drug assessment screening which may be considered at sentencing in the  
3 same manner as a presentence report.

4 (2) A person knowingly and unlawfully possessing two ounces or more  
5 of marijuana or 10 grams or more of hashish or knowingly and unlawfully  
6 cultivating ~~more than three plants of~~ marijuana shall be imprisoned not more  
7 than three years or fined not more than \$10,000.00, or both.

8 (3) A person knowingly and unlawfully possessing one pound or more  
9 of marijuana or 2.8 ounces or more of hashish or knowingly and unlawfully  
10 cultivating more than 10 plants of marijuana shall be imprisoned not more than  
11 five years or fined not more than \$100,000.00, or both.

12 (4) A person knowingly and unlawfully possessing 10 pounds or more  
13 of marijuana or one pound or more of hashish or knowingly and unlawfully  
14 cultivating more than 25 plants of marijuana shall be imprisoned not more than  
15 15 years or fined not more than \$500,000.00, or both.

16 \* \* \*

17 Third: In Sec. 12, after “Subchapter 2.” by striking out the words  
18 “Department of Public Safety” and inserting in lieu thereof the word  
19 Administration

1        Fourth: In Sec. 12, 18 V.S.A. § 4512, in the first sentence by adding “(a)”  
2        before the words “The Department” and by striking out “(1)–(3)” and inserting  
3        in lieu thereof (1)–(4)

4        Fifth: In Sec. 12, 18 V.S.A. § 4512 by striking out subdivision (1)(K) in its  
5        entirety and by relettering the remaining subdivisions to be alphabetically  
6        correct

7        Sixth: In Sec. 12, 18 V.S.A. § 4512 by striking out subdivision (2)(B) in its  
8        entirety and by relettering the remaining subdivisions to be alphabetically  
9        correct

10       Seventh: In Sec. 12, 18 V.S.A. § 4512 by striking out subdivisions (4)(B)  
11       and (C) in their entirety and in subdivision (4)(A) after “samples:” by adding  
12       the word and, and by relettering the remaining subdivision to be alphabetically  
13       correct

14       Eighth: In Sec. 12, 18 V.S.A. § 4512 by adding a subsection (b) to read as  
15       follows:

16       (b) The Agency of Agriculture, Food and Markets shall adopt rules  
17       regarding the cultivation and testing of marijuana regulated pursuant to this  
18       chapter as follows:

19       (1) restrictions on the use of pesticides by cultivators that are injurious  
20       to human health;

1           (2) procedures and standards for testing marijuana for contaminants and  
2           potency and for quality assurance and control; and

3           (3) requirements of a testing laboratory operating manual.

4           Ninth: In Sec. 12, 18 V.S.A. § 4513(b)(2) by striking out “January 1,  
5           2018” and inserting in lieu thereof January 2, 2018

6           Tenth: In Sec. 12, 18 V.S.A. § 4513(c)(1)(B) by striking out the word  
7           “and” and in subdivision (c)(1)(C) by striking out “.” and by inserting in lieu  
8           thereof ; and and by adding a subdivision (D) to read as follows:

9           (D) a minimum of 20 and a maximum of 40 retailer licenses.

10          Eleventh: In Sec. 12, 18 V.S.A. § 4513(c)(2), in the first sentence by  
11          striking out “cultivator licenses in a number and size that provides sufficient  
12          amounts of marijuana to licensed retailers” and inserting in lieu thereof licenses  
13          in a number and size for the purpose of competing with and undercutting the  
14          illegal market

15          Twelfth: In Sec. 12, 18 V.S.A. § 4522(c)(1) by inserting a subdivision (G)  
16          to read as follows:

17          (G) how the applicant will meet its operation’s need for energy  
18          services at the lowest present value life-cycle cost, including environmental  
19          and economic costs, through a strategy combining investments and  
20          expenditures on energy efficiency and energy supply;

21          and by relettering the remaining subdivisions to be alphabetically correct

1        Thirteenth: In Sec. 12, 18 V.S.A. § 4524(e) after the words “drug-related”  
2        by adding the word criminal

3        Fourteenth: In Sec. 12, 18 V.S.A. § 4525(d) after the word “Department”  
4        by adding the words and Agency of Agriculture, Food and Markets

5        Fifteenth: In Sec. 12, by striking out 18 V.S.A. § 4528 in its entirety and  
6        inserting in lieu thereof the following:

7        § 4528. FEES

8        (a) The Department of Public Safety shall charge and collect initial license  
9        application fees and annual license renewal fees for each type of marijuana  
10       license under this chapter. Fees shall be due and payable at the time of license  
11       application or renewal.

12       (b)(1) The initial fee accompanying an application for a cultivator license  
13       pursuant to section 4525 of this chapter shall be determined as follows:

14                (A) For a cultivator license that permits a cultivation space of not  
15       more than 5,000 square feet, the application fee shall be \$5,000.00.

16                (B) For a cultivator license that permits a cultivation space of  
17       5,001–10,000 square feet, the application fee shall be \$10,000.00.

18                (C) For a cultivator license that permits a cultivation space of  
19       10,001–20,000 square feet, the application fee shall be \$15,000.00.

20                (2) The initial fee accompanying an application for a retailer license  
21       pursuant to section 4526 of this chapter shall be \$5,000.00.

1           (3) The initial fee accompanying an application for a marijuana testing  
2           laboratory license pursuant to section 4527 of this chapter shall be \$500.00.

3           (c)(1) The annual license renewal fee for a cultivator license pursuant to  
4           section 4525 of this chapter shall be shall be determined as follows:

5                   (A) For a cultivator license that permits a cultivation space of not  
6                   more than 5,000 square feet, the annual license renewal fee shall be \$5,000.00.

7                   (B) For a cultivator license that permits a cultivation space of  
8                   5,001–10,000 square feet, the annual license renewal fee shall be \$10,000.00.

9                   (C) For a cultivator license that permits a cultivation space of  
10                  10,001–20,000 square feet, the annual license renewal fee shall be \$15,000.00.

11           (2) The annual license renewal fee for a retailer license pursuant to  
12           section 4526 of this chapter shall be \$5,000.00.

13           (3) The annual license renewal fee for a marijuana testing laboratory  
14           license pursuant to section 4527 of this chapter shall be \$2,000.00.

15           (d) The following administrative fees shall apply:

16                   (1) New owner fee shall be \$2,000.00.

17                   (2) Reallocation of ownership interest fee shall be \$1,000.00.

18                   (3) Change of corporate structure fee (per person) shall be \$1,000.00

19                   (4) Change of name fee shall be \$1,000.00.

20                   (5) Change of location fee shall be \$1,000.00.

21                   (6) Modification of license premises fee shall be \$250.00.



1           (7) Duplicate license fee shall be \$100.00.

2           Sixteenth: In Sec. 12, 18 V.S.A. § 4529 in subsection (b) after the word  
3           “chapter” by inserting and chapter 86 of this title and in subsection (d) after the  
4           word “chapter” by inserting and chapter 86 of this title

5           Seventeenth: In Sec. 12, by striking out “§§ 4542–4545. RESERVED” and  
6           inserting in lieu thereof the following:

7           § 4542. TAX IMPOSED

8           (a) There is imposed a marijuana excise tax equal to [XX] percent of the  
9           selling price on each retail sale of marijuana in this State. The tax imposed by  
10           this section shall be paid by the buyer to the retailer. Each retailer shall collect  
11           from the buyer the full amount of the tax payable on each taxable sale.

12           **[OPTION 1: rate = 20%]**

13           **[OPTION 2: rate = 25%]**

14           **[OPTION 3: rate = 37%]**

15           **[OPTION 4: phase in rate**

16                   • **10% effective 1/1/18**

17                   • **15% effective 1/1/19**

18                   • **20% effective 1/1/20]**

19           (b) The tax imposed by this section is separate from the general sales and  
20           use tax imposed by 32 V.S.A. chapter 233, and is not part of the retail sales  
21           price to which those taxes apply. The tax imposed under this section shall be

1 separately itemized from the State and local retail sales tax on the sales receipt  
2 provided to the buyer.

3 (c) The following sales shall be exempt from the tax imposed under this  
4 section:

5 (1) sales under any circumstances in which the State is without power to  
6 impose the tax; and

7 (2) sales made by any dispensary, provided the marijuana will be  
8 provided only to registered qualifying patients directly or through their  
9 registered caregivers.

10 § 4543. LIABILITY FOR TAX AND PENALTIES

11 (a) Any tax collected under this subchapter shall be deemed to be held by  
12 the retailer in trust for the State of Vermont. Any tax collected under this  
13 subchapter shall be accounted for separately so as to clearly indicate the  
14 amount of tax collected, and that the tax receipts are the property of the State  
15 of Vermont.

16 (b) Every retailer required to collect the tax imposed by this subchapter or  
17 shall be personally and individually liable for the amount of tax together with  
18 such interest and penalty as has accrued under the provisions of 32 V.S.A.  
19 § 3202, applied as if the tax in this subchapter were a tax required by Title 32.  
20 If the retailer is a corporation or other entity, the personal liability shall extend  
21 to any officer or agent of the corporation or entity who as an officer or agent of

1 the same is under a duty to collect the tax and transmit it to the Commissioner  
2 of Taxes as required in this subchapter.

3 (c) A retailer shall have the same rights in collecting the tax from his or her  
4 purchaser or regarding nonpayment of the tax by the purchaser as if the tax  
5 were a part of the purchase price of the marijuana and payable at the same  
6 time; provided, however, if the retailer required to collect the tax has failed to  
7 remit any portion of the tax to the Commissioner of Taxes, the Commissioner  
8 of Taxes shall be notified of any action or proceeding brought by the retailer to  
9 collect the tax and shall have the right to intervene in such action or  
10 proceeding.

11 (d) A retailer required to collect the tax may also refund or credit to the  
12 purchaser any tax erroneously, illegally, or unconstitutionally collected. No  
13 cause of action that may exist under State law shall accrue against the retailer  
14 for the tax collected unless the purchaser has provided written notice to a  
15 retailer, and the retailer has had 60 days to respond.

16 § 4544. BUNDLED TRANSACTIONS

17 (a) Except as provided in subsection (b) of this section, a retail sale of a  
18 bundled transaction that includes marijuana is subject to the tax imposed by  
19 this subchapter on the entire selling price of the bundled transaction.

20 (b) If the selling price is attributable to products that are taxable and  
21 products that are not taxable under this subchapter, the portion of the price

1 attributable to the nontaxable products are subject to the tax imposed by this  
2 subchapter unless the retailer can identify by reasonable and verifiable  
3 standards the portion that is not subject to tax from its books and records that  
4 are kept in the regular course of business.

5 (c) As used in this section, “bundled transaction” means:

6 (1) the retail sale of two or more products where the products are  
7 otherwise distinct and identifiable, are sold for one nonitemized price, and at  
8 least one of the products includes marijuana subject to the tax under this  
9 subchapter; or

10 (2) marijuana provided free of charge with the required purchase of  
11 another product.

12 § 4545. RETURNS

13 (a) Any retailer required to collect the tax imposed by this section shall, on  
14 or before the 15th day of every month, return to the Department of Taxes,  
15 under oath of a person with legal authority to bind the retailer, a statement  
16 containing its name and place of business, the amount of marijuana sales  
17 subject to the excise tax imposed by this subchapter sold in the preceding  
18 month, and any other information required by the Department of Taxes, along  
19 with the tax due.

20 (b) Every retailer shall maintain, for not less than three years, accurate  
21 records showing all transactions subject to tax liability under this subchapter.

1 These records are subject to inspection by the Department of Taxes at all  
2 reasonable times during normal business hours.

3 Eighteenth: In Sec. 12, 18 V.S.A. § 4546(b)(5) after the word “public” by  
4 inserting , one of whom shall have expertise in public health,

5 Nineteenth: In Sec. 12, 18 V.S.A. § 4547(a) in subdivision (7) by striking  
6 out the word “and” and in subdivision (8) by striking out “;” and inserting in  
7 lieu thereof “;” and by striking out subdivision (10) in its entirety and inserting  
8 in lieu thereof the following:

9 (10) monitor the extent to which marijuana is accessed through both the  
10 legal and illegal market by persons under 21 years of age;

11 (11) identify strategies for preventing youth from using marijuana;

12 (12) identify academic and scientific research, including longitudinal  
13 research questions, that when completed may assist policymakers in  
14 developing marijuana policy in accordance with this act; and

15 (13) report any recommendations to the General Assembly and the  
16 Governor, as needed.

17 Twentieth: By adding a Sec. 17a to read as follows:

18 Sec. 17a. 18 V.S.A. § 4474a is amended to read:

19 § 4474a. REGISTRATION; FEES

20 (a) The ~~department~~ Department shall collect a fee of \$50.00 for the  
21 application authorized by sections 4473 and 4474 of this title. The fees

1 received by the ~~department~~ Department shall be deposited into a ~~registration~~  
2 ~~fee fund~~ the Marijuana Regulation Fund as provided in section 4529 of this  
3 title and used to offset the costs of processing applications under this  
4 subchapter.

5 (b) A registration card shall expire one year after the date of issue, with the  
6 option of renewal, provided the patient submits a new application ~~which~~ that is  
7 approved by the ~~department of public safety~~ Department, pursuant to section  
8 4473 or 4474 of this title, and pays the fee required under subsection (a) of this  
9 section.

10 Twenty-first: By adding a Sec. 18a to read as follows:

11 Sec. 18a. 18 V.S.A. § 4474e is amended to read:

12 § 4474e. DISPENSARIES; CONDITIONS OF OPERATION

13 \* \* \*

14 ~~(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual~~  
15 ~~benefit of its patients but need not be recognized as a tax-exempt organization~~  
16 ~~by the Internal Revenue Service.~~

17 ~~(2)~~ A dispensary shall have a sliding-scale fee system that takes into  
18 account a registered patient's ability to pay.

19 \* \* \*

1           (o) Notwithstanding any provision of law or any provision of its articles or  
2           bylaws to the contrary, a dispensary formed as a nonprofit may convert to any  
3           other type of business entity authorized by the laws of this State by:

4                     (1) a majority vote of the directors and a majority vote of the members,  
5           if any; and

6                     (2) filing with the Secretary of State a statement that the dispensary is  
7           converting to another type of entity and the documents required by law to form  
8           the type of entity.

9           Twenty-second: In Sec. 19, 18 V.S.A. § 4474g, after “\* \* \*” by adding the  
10           following:

11           (e) The Department of Public Safety shall not issue a registry identification  
12           card to any applicant who has been convicted of a drug-related criminal  
13           offense or a violent felony or who has a pending charge for such an offense.

14           ~~For purposes of~~ As used in this subchapter, “violent felony” means a listed  
15           crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual  
16           exploitation of children in violation of 13 V.S.A. chapter 64.

17   \* \* \*





1 (I) the amount of any deduction for State and local taxes on or  
2 measured by income, franchise taxes measured by net income, franchise taxes  
3 for the privilege of doing business and capital stock taxes; and

4 (II) to the extent such income is exempted from taxation under  
5 the laws of the United States by the amount received by the taxpayer on and  
6 after January 1, 1986 as interest income from State and local obligations, other  
7 than obligations of Vermont and its political subdivisions, and any dividends  
8 or other distributions from any fund to the extent such dividend or distribution  
9 is attributable to such Vermont State or local obligations;

10 (III) the amount of any deduction for a federal net operating  
11 loss; and

12 (ii) decreased by:

13 (I) the “gross-up of dividends” required by the federal Internal  
14 Revenue Code to be taken into taxable income in connection with the  
15 taxpayer’s election of the foreign tax credit; ~~and~~

16 (II) the amount of income which results from the required  
17 reduction in salaries and wages expense for corporations claiming the Targeted  
18 Job or WIN credits; and

19 (III) any federal deduction that the taxpayer would have been  
20 allowed for the cultivation, testing, processing, or sale of marijuana, as  
21 authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

\* \* \*

(21) “Taxable income” means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

- (i) interest income from non-Vermont state and local obligations;
- (ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

- (i) income from United States government obligations;

1                   (ii) with respect to adjusted net capital gain income as defined in  
2 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend  
3 income: either the first \$5,000.00 of such adjusted net capital gain income; or  
4 40 percent of adjusted net capital gain income from the sale of assets held by  
5 the taxpayer for more than three years, except not adjusted net capital gain  
6 income from:

7                   (I) the sale of any real estate or portion of real estate used by  
8 the taxpayer as a primary or nonprimary residence; or

9                   (II) the sale of depreciable personal property other than farm  
10 property and standing timber; or stocks or bonds publicly traded or traded on  
11 an exchange, or any other financial instruments; regardless of whether sold by  
12 an individual or business;

13                   and provided that the total amount of decrease under this  
14 subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable  
15 income; ~~and~~

16                   (iii) recapture of State and local income tax deductions not taken  
17 against Vermont income tax; and

18                   (iv) any federal deduction that the taxpayer would have been  
19 allowed for the cultivation, testing, processing, or sale of marijuana, as  
20 authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

21 \* \* \*

1        Twenty-fifth: By adding a Sec. 29b to read as follows:

2        Sec. 29b. 32 V.S.A. § 9741(51) is added to read:

3                (51) Marijuana sold by a dispensary as authorized under 18 V.S.A.  
4        chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

5        Twenty-sixth: By striking out Sec. 30 (effective dates) in its entirety and  
6        inserting in lieu thereof the following:

7        Sec. 31. EFFECTIVE DATES

8                (a) This section and Secs. 1, 2, 12, and 18a shall take effect on passage.

9                (b) Secs. 7, 11, 13 through 18, and 19 through 29 shall take effect on  
10        July 1, 2016.

11               (c) Sec. 29a shall take effect January 1, 2017 and shall apply to taxable  
12        year 2017 and after.

13               (d) Secs. 6, 8 through 10, 29b, and 30 shall take effect on January 2, 2018.

14               (e) Sec. 8a shall take effect on July 1, 2018.

15

16        (Committee vote: \_\_\_\_\_)

17

\_\_\_\_\_

18

Senator \_\_\_\_\_

19

FOR THE COMMITTEE