

Summary of Senate Committee on Judiciary Strike-all Proposal of Amendment to S.241

February 1, 2016

Findings and intent

Any efforts to legalize and regulate marijuana must comply with the 2013 Cole memo and 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 to develop and administer an education and prevention program to address evidence that early and persistent use of marijuana may be detrimental to the health and well-being of youth.

Adult Use; Legal Possession; Civil and Criminal Penalties

Removal of 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.

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.

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 will not be permitted to be 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.

### Marijuana Establishments

Marijuana establishments shall be regulated by the Department of Public Safety, which shall be responsible for adopting rules to implement and enforce the provisions of the act.

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.

Applicant shall be a Vermont resident 21 years of age or older and subject to a criminal background check.

Financier shall also be a Vermont resident and subject to a criminal background check.

A maximum of 25 cultivator licenses and 40 retailer licenses may be issued prior to July 1, 2018, upon which time the caps will sunset and the appropriate size and number of marijuana establishments will be determined by the Department of Public Safety.

Only marijuana flowers may be sold to the public.

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.

### 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

Provides an advantage in obtaining a commercial cultivator or retailer license, or both, and may obtain both and be vertically integrated

May continue to provide edible marijuana products to patients provided only if they are in child-resistant packaging

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

### 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 which prevents 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 two 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 his or her designee, and operates until July 1, 2019.

Commission duties include:

- (1) collect 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) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;
- (3) consider 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) examine 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) keep updated on the latest information in Vermont and other jurisdictions regarding the prevention and detection of drugged driving as it relates to marijuana;
- (6) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;
- (7) examine whether Vermont should allow additional types of marijuana establishment licenses, including a processor license and product manufacturer license;
- (8) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries;
- (9) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Department and policymakers 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; and
- (10) report any recommendations to the General Assembly or the Governor, or both, as needed.

General timeline

Upon passage	Department of Public Safety (DPS) begins rulemaking process
8/1/16	Marijuana Program Review Commission begins meeting
3/15/17	DPS adopts final rules
3/15/17–4/15/17	Cultivator and testing laboratory application period
7/15/17	DPS issues cultivator and testing laboratory licenses
7/15/17–8/15/17	Retailer application period
10/15/17	DPS issues retailer licenses
1/1/18	Licensed retail stores may sell marijuana to person 21 years or older
1/1/18	No civil or criminal penalties for possession of one ounce or less of marijuana by a person 21 years or older
7/1/18	Application process opens for all licenses
10/15/18	Commission issues final report