

Memorandum

To: House Committee on Government Operations
From: Thomas A. Little, Co-Chair
Governor's Marijuana Advisory Commission
Date: February 28, 2018
Re: H. 819 - An act relating to municipal authority to adopt nuisance ordinances
regarding marijuana odor

While the Advisory Commission has not met to review H. 819, I have done so and wanted to share some thoughts with the Committee. The Advisory Commission's January 16, 2018 interim report addresses, at pp. 18-24, a series of miscellaneous issues that derive from the Governor's Executive Order itself, many relate to legalization impacts on local government. The Report is available at marijuanacommission.vermont.gov. The pertinent piece of the Report is as follows:

Code and ordinance enforcement Most towns and cities have zoning bylaws, but many lack code enforcement for issues like electrical, health, building, and plumbing standards. Towns and cities that have codes may experience an increased enforcement burden under a tax and regulate legalization framework if cannabis establishments are located in their jurisdiction. Additionally, the State will need to assume those responsibilities for municipalities that do not have code enforcement. Under either a decriminalization or legalization scenario municipalities should be extended specific powers under 24 V.S.A. § 2291 to regulate or prohibit cannabis use in public spaces.

Municipalities should also be given the authority to regulate or prohibit odor nuisances caused by cannabis use and cultivation. In communities with limited or no local law enforcement, other municipal officials should have sufficient resources to assume the responsibility of enforcing local ordinances.

I added emphasis to one sentence in particular, as it relates directly to H. 819's proposed statutory changes. H. 819 proposes to make it clear that nothing in H. 511, as enacted, impairs the authority of a town or city to enact a civil ordinance regulating as a nuisance significant odors emanating from a person's property due to marijuana consumption on the property. H. 819 is responsive to this recommendation. While, as noted above, the Commission has not met to discuss H. 819, I believe it would find the bill to be consistent with the Report's concerns and recommendations, and a helpful clarification of the law.

I am available by telephone to discuss this with the Committee on the morning of March 1, 2018. I can be reached at (802) 985-2701, or (802) 238-4989.