

Testimony on S.54
Lori Augustyniak, Coordinator
April 17, 2019

Thank you again for the opportunity to speak to the Government Operations Committee and please let me know if you require any further information or have any questions.

Research over the last two decades has proven that drug and alcohol addiction is preventable and while we are glad to see so many people at the State House talking about prevention let me clearly say that **taxation and regulation that allows for commercialization of marijuana is not good prevention.**

Prevention Works! VT and Vermont's prevention coalitions are opposed to the creation of a commercial system for retail sales of recreational marijuana and want to clearly refute recent statements that commercialization of marijuana is needed to provide tax dollars for prevention services.

It is true that the prevention system in VT is under-funded and lacks necessary resources to implement effective strategies with enough frequency, intensity, and duration to adequately prevent substance abuse in our communities, **but taxation and regulation that allows for commercialization of marijuana is not good prevention.**

We believe that to support declines in youth use rates, the state must build a solid, evidence-based infrastructure aimed at ADULTS AND YOUTH to prevent marijuana use and decrease youth use rates to below 10% BEFORE embarking on a new course with marijuana.

Based on successful public health strategies, like tobacco control, we need marijuana laws that not only prevent or delay first use, **but also reduce consumption and encourage current marijuana users to quit**, just like our tobacco control program does.

We all should be concerned that today, one-half of VT young adults who report using marijuana, also report that they use daily or almost daily – that is not what most people consider responsible or recreational use.

Evidence demonstrates that without a **strong public health framework** for this work, a wealthy and politically powerful marijuana industry will develop and use its political clout to manipulate regulatory frameworks and thwart public health efforts to reduce use – just like happened with tobacco and alcohol.

Here are our recommendations and comments to build a strong public health framework in this bill:

Cannabis Control Board

In S.54 the Cannabis Control Board includes members whose expertise is agriculture, social justice and biz mgt or regulatory compliance who are sure to help create a competitive marketplace for businesses, but not protect public health.

It is important to expand the membership of the Board to **include a public health expert** since the Control Board is charged with developing safety materials, product labelling and employee training requirements.

Utilizing a public health framework would include giving the Control Board power to:

- Limit strong THC potency
- Set specific testing guidelines for product quality and safety
- Set a maximum THC amount per package, not just per serving
- Limit how many servings may be in a single marijuana product
- Change the THC amount limits based on the available and emerging evidence not requiring legislative approval

Advertising

S.54 already includes some advertising restrictions, but the bill fails to include other important restrictions that would prevent marijuana companies from using marketing claims to increase the appeal and safety of their products.

--Clearly state who (person or entity) is charged with judging whether advertising adheres to intent of the law

--Identify a source or **body of knowledge that will provide guidance** to the decision-making entity on advertising
This is another reason why a public health representative must be on the Control Board.

--Require that **all advertising statements and claims be evidence-based** and approved by the Department of Health, including health-related claims that would increase product appeal. We have a stellar cast of experts at VDH – we need to use them.

Experience with tobacco and alcohol control provides a strong public health rationale for

--**Reduce the threshold for underage exposure** from the 30% (in the current bill) to 15%, as the 30% threshold is an ineffective measure that will permit marijuana companies to place advertisements where youth are likely to be exposed, and possibly more exposed than adults. Again, another lesson learned from tobacco and alcohol.

--**Restrict sponsorship** and advertising at sporting events and other entertainment venues where 15% or more of the audience is “reasonably” expected to be 21 years of age or younger, or better limit it to adult only events and venues.

--Place **limitations on third parties**, for example public relations firms or industry trade groups, that write “news pieces” or testimonials that are advertisements and would have the effect of promoting marijuana use.

--Do not allow **tax deductions** for advertising and marketing, in order to increase costs of marijuana company promotional activity.

--Require marijuana companies to **report to the Department of Health all paid advertising expenditures**, price discounting and incentives, promotional allowances, payments to retailers and wholesalers, and contributions to elected officials. These laws are important to promote government transparency and to discourage industry payments to professionals (e.g., pharmaceutical industry payments to physicians). Reports of this data would be required by law to be publicly available

--Clearly define **Internet advertising**. Effective public health legislation would define digital advertising explicitly and include, but not be limited to, text messaging, Instagram, Facebook, pop-up ads online, mobile ads or apps or other new-age advertising platforms in which those under 21 might download or use.

--Only allow retail marijuana **advertising inside licensed, adult-only retail outlets** that sell retail marijuana and marijuana products (with some text-only signage allowed outside to inform adult buyers that they can purchase such products there).

Labelling & Packaging

--Package cannot contain any false or misleading statements including health claims or use of the term “organic” – which infers that the product is safer or healthier

--Insist on Child-Resistant Packaging

--Require that label information on packages must be unobstructed and conspicuous

--Require warnings about use by women who are pregnant.

Licensing

Licensing restrictions should include **limits on retailer density** and location. Require licensed facilities to be prohibited within 1,000 feet of locations that are frequented by youth, young adults and vulnerable adults, and be required to be at least 1,000 feet from other retail licensed locations.

If you choose to use the definition of a “school” it must include educational establishments where at least 75% of the population are younger than 21 to **include colleges and universities**.

No one under minimum age should be allowed in any “cannabis establishment”

Limit the number of transactions per person per day per outlet

Insist that all employees involved in the sale of cannabis completes a **training program approved by the Board** prior to selling cannabis and at least once every 24 months thereafter. Experience from the VT Department of Liquor Control confirms that a licensee conducted training is less effective at preventing sales to underage users.

Add language that calls out the **penalties for a cannabis retailer (owner and staff) who sells a product to someone under the age of 21**.

Regulation by Local Government

We recommend the bill include an **Opt IN** clause for municipalities for 2 reasons.

1. If someone opens a cannabis establishment before the town can hold an annual or special meeting to discuss the issue that business is grandfathered by the current bill, which essentially eliminates a municipalities control to respond to resident’s concerns about marijuana’s presence in the community
2. An Opt Out approach puts an undue burden on public health advocates to launch the community conversation instead of the commercial interest being responsible for testing the community’s desire to have them set up shop in that location.

Finally, we request that you **include the following statements**:

Nothing in the bill should be construed that the State encourages or endorses marijuana use and in fact, recognizes the potential danger that marijuana use may pose to some users.

Employers, landlords and licensing bodies maintain discretion to enforce their own regulations as far as the use, possession and cultivation of marijuana by employees, tenants and licensees.

Suggested language **amendments regarding funding**:

Sec. 6b. APPROPRIATION In fiscal year 2020, (amount to be determined \$600,000 - \$6 mil) is appropriated from the tax established 32 V.S.A. § 7901 to **Prevention**. This appropriation is made in anticipation of receipts in the fund.

Sec. 6c. CONTINGENT CANNABIS REGULATION FUND DEFICIT OFFSET To the extent that the Cannabis Regulation Fund has a negative balance at the close of the fiscal year 2022, proceeds in that amount from the tax established 32 V.S.A. § 7901 in fiscal year 2023 **after payment of the annual Prevention appropriation**, shall be deposited into the Cannabis Regulation Fund.

I hope you agree that ultimately, we want fewer people using marijuana, especially young people.

Your committee can address and prevent the emerging and future public health problems associated with marijuana use by preventing the growth of another large industry similar to the tobacco or alcohol industries.