

PHILIP B. SCOTT
GOVERNOR



State of Vermont
OFFICE OF THE GOVERNOR

MEMORANDUM

TO: Senator Dick Sears, Chair/Senate Judiciary
Senator Jeanette White, Chair/Senate Government Operations

FROM: Monica Caserta Hutt, Chief Prevention Officer

DATE: March 8, 2021

RE: S.25, *An Act relating to miscellaneous cannabis regulation procedures*

As you know, I have shifted my role within the Administration and have assumed a position as the Chief Prevention Officer. In that role, I am writing to share the Administration's perspective surrounding the current conversations and discussions related to S.25, *An Act relating to miscellaneous cannabis regulation procedures*, in relation to Act 164 (S.54) of 2020. As you are aware, the Governor let the commercial sale of cannabis in Vermont become law without his signature, asking the Legislature to address several crucial areas upon reconvening this year as Vermont implements a regulated cannabis industry. As a reminder, the Governor asked for:

- Changes to provisions allowing for “vaping” cannabis. Over the past two years we have become acutely aware of the risks of vaping to public health and have focused on ways to minimize vaping.
- Marketing restrictions to prevent youth cannabis use. There is conclusive scientific evidence that cannabis use negatively impacts development in youth. Measures should be developed to ensure that cannabis products are not marketed in ways that target or appeal to children and adolescents- this must include edible products.
- Accountability of the Board to the Governor. Board members, exempt employees appointed by the Governor, are only removable for cause by the other Board members. This removes the Board from accountability to the Governor and creates an unconstitutional usurpation of the Governor's constitutional duty to faithfully execute the laws. This is a provision that exposes all the work of the Board to potential legal challenges. Additionally, it leaves the Board untethered from the Executive Branch in a way which will inevitably impede opportunities for cooperation and collaboration within the governmental enterprise.
- A codified, specific use of excise tax proceeds for prevention programming and protections of the use of those dollars. The 30% excise tax set-aside must be dedicated to a special fund for misuse prevention programming as directed by the Commissioner of Health.
- Proper resourcing for law enforcement. Law enforcement was directed to receive at least 16 hours of advanced roadside impaired driving enforcement training with no funding or resources dedicated.

The Governor also encouraged the Legislature to look to the State of Illinois as a benchmark in how to create a cannabis market that is equitable and moves toward economic justice. He highlighted some of the additional supports the Legislature should consider, including: the creation of a social equity applicant category for cannabis establishment licenses; a 50 percent licensing fee waiver for these applicants; and additional technical and financial supports. Further, the Governor recommended that in the event the Legislature maintains the current integrated licensing structure, it increase equity by directing revenues from those licensees to benefit social equity applicants and the communities historically most negatively impacted by cannabis enforcement.

We are grateful to see that the current provisions of S.25 do move towards addressing some of these cornerstone issues. For example, authorizing, rather than requiring, licensing of integrated licensees, the provision that requires the Cannabis Control Board to consider reduced licensing fees for individuals historically disproportionately impacted by cannabis prohibition, and the requirement for a report regarding a proposal for a low-interest loan fund to encourage those historically impacted populations to enter the regulated marketplace. The Administration would encourage the use of stronger language to this end, such as “*shall develop*” a reduced licensing fee structure and a low interest fund, rather than limiting us to the considerations and reports embedded in the current bill.

Additionally, the bill recognizes the need for additional funds for law enforcement to do Advanced Roadside Impaired Driving Enforcement training by requiring the Criminal Justice Council (CJC) to report to the Joint Legislative Justice Oversight Committee on the appropriate resources. We would request the language in section 5 include language that requires CJC to consult with the Department of Public Safety and BIPOC community stakeholders in developing those recommendations.

We understand that the Senate Judiciary Committee has been reviewing prior proposals for inclusion of a more direct prohibition on marketing to our youth. We look forward to seeing this language included in the version of S.25 ultimately passed out of the Senate.

However, we remain concerned that in its current form, the bill does not sufficiently address several of the Governor’s concerns outlined above, including cannabis vaping and the authority of the Governor to remove Cannabis Control Board members as with any other appointed, exempt state employee.

Lastly, one key tenet of Governor Scott was for towns to opt-in to hosting retail establishments. The language being considered to require municipalities to hold a vote by 2023, otherwise considered to have opted-in, effectively changes the construct from opt-in to opt-out. The bill also calls for these votes to happen via a vote of “those present”. As we continue to evaluate the merits of moving more permanently to mail-in ballots and accessibility for all community members, the Committees may consider using more flexible language in Section 1.

As always, the Administration appreciates the Committees’ consideration of this written input and can provide follow up testimony from key members of the Administration at your requests.