



MARIJUANA TAXATION AND REGULATION SYSTEM INVENTORY

GOVERNOR'S MARIJUANA ADVISORY COMMISSION—TAXATION AND REGULATION SUBCOMMITTEE

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OVERVIEW OF INVENTORY -- BROAD CATEGORIES

- Alternative Forms of Use
- Business Infrastructure
- Business Legal Structures
- Consumer Protection
- Diversion Prevention
- Hemp
- Licensing
- Local Control
- Medical Marijuana
- Public Education
- Public Safety
- Revenue
- Workplace Regulations

ALTERNATIVE FORMS OF USE (EDIBLES, VAPING, ETC.)

- Questions to Consider:
 - Who regulates?
 - In WA, regulation of edibles is transitioning from Liquor Control Board to Department of Ag.
 - Serving size potency limits?
 - OR only allows 5 mg THC/serving & 50 mg THC/package. CO and WA allow twice those amounts.
 - Other restrictions?
 - CO, for example, has banned human- or animal-shaped edibles (e.g., gummy bears), under the logic that these appeal to children.
 - Further Research?
 - *What questions does this subcommittee have?*

BUSINESS INFRASTRUCTURE

- Questions to Consider:
 - Banking
 - Issues addressed in January 15, 2018 interim report to Governor
 - Possibility of a State Bank? (S.48, H.208)
 - Insurance
 - Issues addressed in January 15, 2018 interim report to Governor
 - What Security measures will be required of marijuana related businesses?
 - All legal states specify minimum standards for locks and alarm systems at establishments holding marijuana.
 - WA requires all workers and visitors to wear ID badges at establishes holding marijuana.
 - Further Research?
 - *What questions does this subcommittee have?*

BUSINESS LEGAL STRUCTURES

- Questions to Consider:
 - Should their be preferred or required legal structures for marijuana-related businesses?
 - Should their be a VT residency requirement for business principals (especially for cultivators?)
 - CO requires that at least one officer of each marijuana retail business, and *all* day-to-day operators of marijuana retail business, be able to prove they are CO residents for at least the past year—this was recently changed from a two-year requirement.
- Further Research?
 - *What questions does this subcommittee have?*

CONSUMER PROTECTION

- Questions to consider:
 - Restrictions on Advertisements?
 - Current legal states disallow cartoon characters or otherwise appearing to target children; disallow targeting out-of-staters. In CO, a marijuana establishment cannot advertise on TV, internet, or in print without reliable evidence that less than 30% of audience is <21.
 - OR & WA disallow claims that marijuana is therapeutic or curative.
 - OR disallows depictions of marijuana usage.
 - CO does not allow advertising outdoors (signs, billboards, etc.)
 - Packaging
 - Current legal states require child-proof, opaque packaging.
 - CO introduced universal symbol that appears on packaging indicating THC content.

CONSUMER PROTECTION (CONTINUED)

- Potency
 - What does Dept. of Health need?
 - What does Agency of Agriculture need, re: testing?
- Private Cause of Action
 - New 18V.S.A. § 4230g created by Act 86 (H.511), which allows an individual, their relatives, representatives, or estate (if deceased) to bring a civil action for damages against a person who knowingly dispensed marijuana to a person under 21.
- Quality Control
 - How to avoid adulteration, assure products are what they claim to be?
 - What does Dept. of Health suggest?
- Further Research?
 - *What questions does this subcommittee have?*

DIVERSION PREVENTION

- Questions to Consider:
 - How to prevent diversion to non-legal states?
 - Legal states researched all require some form of seed-to-sale tracking. In CO this entails tags that track along each point of transaction. In WA, notifications are required at each key transaction point, which triggers a waiting period for an inspection.
 - How to prevent diversion to minors / black market?
 - Difficult issue. WA does not allow home-grow (likely no longer an option for VT). WA also examines population data to try to scale licenses issued with local demand?
 - Does Vermont need to think outside the box?
 - By most measures, legal states have failed to prevent diversion out-of-state and to the black market. What can Vermont do differently?
- Further Research?
 - *What questions does this subcommittee have?*

HEMP

- Questions to Consider:

- How to regulate?

- CO: Department of Ag Certifies seeds (0.3% or less THC). No jurisdiction over processing, sale or distribution
 - WA: Pilot program, only allows licensing for growers with specific research goals
 - OR: Allows THC certification through 3rd-party labs

- Further Research?

- *What questions does this subcommittee have?*

LICENSING

- Questions to consider:
 - Who needs a license?
 - Legal states license cultivators, processors/manufacturers, retailers, transporters, and lab testers. Licensing structures (outside of fees) are fairly boilerplate.
 - Licenses for social clubs/lounges?
 - In CO, a pilot project is occurring at the municipal level (Denver).
 - How to manage production via licenses?
 - Encourage vertical integration?
 - Tiered licensing system?
 - Further Research?
 - *What questions does this subcommittee have?*

LOCAL CONTROL

- Questions to consider:
 - How to address VT's position as Dillon's Rule state? (covered in January 15, 2018 interim report to Governor)
 - Buffer Zones for Citing of Businesses
 - WA's buffer zone requirements are at State level, gives municipalities the option of lowering some buffers (e.g., from libraries, public parks, and public transit centers) to 100 feet.
 - Local Choice
 - Following liquor control opt-in/opt-out at local level model under 7V.S.A. § 161 would be consistent with current legal states.
 - Land Use / Zoning
 - Nuisance Ordinances
 - Further Research?
 - *What questions does this subcommittee have?*

MEDICAL MARIJUANA

- Questions to consider:
 - Subject to sales tax, an excise tax or neither?
 - In CO, medical marijuana is exempt from excise tax, but subject to sales tax.
 - In WA, limited tax exemption
 - In OR, exempt.
 - **VT Dept. of Taxes interpretation: medical marijuana is exempt from sales tax as a drug, but tangible personal property sold by dispensaries (such as paraphernalia) is subject to sales tax.**
 - Further Research?
 - *What questions does this subcommittee have?*

PUBLIC EDUCATION / PUBLIC SAFETY

- Purview of other subcommittees
- Questions to Consider:
 - What does Education and Prevention subcommittee suggest re: public education?
 - What does Dept. of Public Safety suggest re: public education?
 - What does Dept. of Health suggest re: public education?
 - What does Dept. of Public Safety / Roadway Safety Subcommittee suggest re: impairment testing?

REVENUE

- Questions to Consider:
 - Tax Structure
 - Consider 15-25% ad valorem excise tax at the point of retail sale;
 - Consider a recreational marijuana local option tax as a means of raising revenues for municipalities with retail establishments;
 - Consider offsetting federal income tax law by authorizing a VT deduction of business-related expenses (26 U.S.C. § 280E).
 - Tax structure in select current legal states: see [10/20/2017 Market and Revenue Estimates](#).
 - Tax Revenue Distribution
 - How much funding will regulatory agencies (DPS,VDH,Ag,Tax, DLC, others) need?
 - Further Research?
 - *What questions does this subcommittee have?*

WORKPLACE REGULATIONS

- Questions to Consider:
 - What does Dept. of Labor suggest re: workplace safety, employment practices, etc.?
 - Select current legal states have similar, effectively boilerplate workplace regulations that could be borrowed from.
 - Further Research?
 - *What questions does this subcommittee have?*

WHAT'S MISSING?

- Further questions, concerns, comments, items missed or otherwise not discussed?