

# Governor's Marijuana Advisory Commission

## Roadway Safety Subcommittee

# Executive Order 15-17

- Purpose
  - Recommendations to Governor on implementing and operating a comprehensive regulatory and revenue system for an adult marijuana market, and accompanying legislation if deemed necessary.
- Structure: Three Subcommittees
  - Roadway Safety
  - Education and Prevention
  - Taxation and Regulation

# Roadway Safety Subcommittee

- **Mandate/Duties:**

- examine and present findings on drugged driving and recommend appropriate measures to ensure roadway safety;
- pursue a regional impairment threshold for the New England states, and parity in drugged driving roadway safety laws and penalties.

# Time Frames

- **November 15, 2017: Report to Commission**
  - Baseline safety impacts of legalization in the following areas:
    - Injury and death
    - Crime rates
    - Marijuana use and abuse of other substances in connection with roadway safety.
- **January 15, 2018: Commission Report to Governor**
  - An appropriate impairment testing mechanism, including the possible merits of saliva-based testing standards;
  - Adequacy of and funding for drug recognition experts (DREs) and training;
  - Capacity for in-state testing and analysis of toxicology samples for DUIs related to drugs such as marijuana;
  - Feasibility of regional impairment standards;
  - Adequacy of and funding for resources that municipalities will need to support professional and volunteer fire, police, and emergency services resulting from access and use of recreational marijuana;
  - Need for performance benchmark(s) before further decriminalization/legalization;
  - Miscellaneous issues: search and seizure considerations; and
  - Changes to Vermont law required to protect those under 21 years old and ensure highway safety.



# Time Frames

- **December 15, 2018: Commission Recommendations to Governor**
  - implementing and operating a comprehensive regulatory and revenue system for an adult marijuana market;
  - accompanying legislation.
- **Progress Reports to Governor**
  - April 1, 2018
  - July 1, 2018
  - October 1, 2018

# Subcommittee Assignment

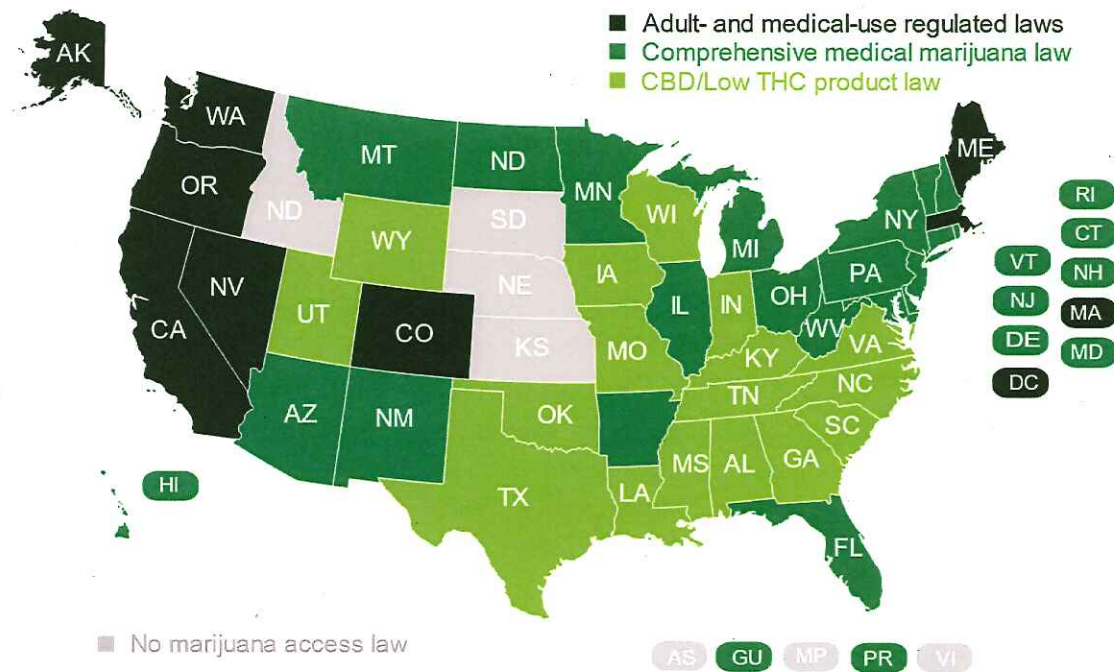
- Compile Data/Evidence
  - Current roadway injury and death data related to marijuana
  - Increase/decrease in crime rates in states where marijuana is legal
- Make Recommendations
  - Appropriate impairment testing mechanism;
  - Drug Recognition Experts – how many do we need and how are funded;
  - Vermont Forensic Lab: What is its capacity and can it handle increased testing for marijuana impaired drivers;
  - Impairment thresholds/standards: Should/can they be established and should/can they be regionalized (ME, MA, NH);
  - Need for performance benchmark(s), e.g., decline in major crashes due to marijuana-impaired driving;
  - Adequacy of Law Enforcement, Fire and EMT services to address impaired driving due to marijuana and marijuana and alcohol;
  - Changes to Vermont law:
    - to protect those under 21 years;
    - ensure highway safety (e.g., changes to the DUI laws);
    - Search and Seizure.

# Roadway Safety Overview: Nationwide and New England

Roadway Safety Subcommittee  
Governor's Marijuana Advisory Commission

September 28, 2017

# Legalization Overview



Source: National Conference of State Legislatures



# Roadway Safety Laws Nationwide

- Zero tolerance laws
  - Prohibit having drug (or metabolite) in body/body fluid while operating motor vehicle
- Per se laws
  - Establish threshold for drug (or metabolite)—i.e., 5 nanogram threshold for THC
- Impaired driving laws
  - Require driver to be under the influence, or driving ability to be impaired, etc.

Sources: National Conference of State Legislatures; Governors Highway Safety Association.

## Executive Order No. 15-17

“Roadway safety. One subcommittee shall be formed to examine and present findings on drugged driving and recommend appropriate measures to ensure roadway safety. Additionally, this subcommittee *shall pursue a regional impairment threshold for the New England states, and parity in drugged driving roadway safety laws and penalties.*”

# New England

- Maine

- “A person commits OUI if that person: A. Operates a motor vehicle: (1) While under the influence of intoxicants . . . .” Me. Rev. Stat. tit. 29-A, § 2411.
- The presence of drugs or metabolites in blood or urine “is admissible evidence, but not prima facie, indicating whether that person is under the influence of intoxicants to be considered with other competent evidence, including evidence of alcohol level.” *Id.* § 2432.
- Penalties: fine, license suspension, and imprisonment (depending on various factors, i.e. speed, passenger under 21 yrs, etc.). *Id.* § 2411.

# New England

- Massachusetts

- “Whoever . . . operates a motor vehicle . . . while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances . . . shall be punished by a fine of not less than five hundred nor more than five thousand dollars or by imprisonment for not more than two and one-half years, or both such fine and imprisonment.” Mass. Gen. Laws ch. 90, § 24.



# New England

- Rhode Island

- “Whoever drives, or otherwise operates, any vehicle in the state with a blood presence of any scheduled controlled substance as defined within chapter 28 of title 21, as shown by analysis of a blood or urine sample, shall be guilty of a misdemeanor and shall be punished as provided in subsection (d).” 31 R.I. Gen. Laws Ann. § 31-27-2.
- Penalties: fine, community service, and/or imprisonment up to one year.

# Next Steps

- On the legal side:
  - Take a deeper look at roadway safety laws in New England and nationally
  - Study case law
- On the evidence side:
  - Evaluate evidence relating to marijuana impairment, whether there is a level at which impairment occurs, how impairment is measured, etc.
    - Assess pros and cons of different state law models and scientific evidence to support those approaches
  - Consult experts