

## GOVERNOR'S ADVISORY COMMISSION ON MARIJUANA

### JULY 1, 2018 STATUS REPORT

Pursuant to Executive Order 15-17 (the "EO"), the Co-Chairs of the Governor's Advisory Commission on Marijuana submit this status report on the progress made in fulfilling the mandates of the EO – specifically the requirements in Section III(3) of the EO for a report due December 15, 2018 with recommendations on how the state might established "a comprehensive regulatory and revenue system for an adult marijuana market." The Commission is charged with analyzing the best available data, studies and information and making recommendations on how Vermont can best address the issues and challenges posed by a potential taxed and regulated adult-use cannabis market. The primary concerns in crafting this proposal are public safety and preventing substance abuse, particularly among young Vermonters, while limiting additional demands on existing State resources.

#### Introduction and Background

As noted in previous updates and reports, at the initial meeting of the Commission, each member was assigned to one of the three Subcommittees created by the EO addressing specific aspects of a taxed and regulated cannabis market and were invited to participate in the research, work and reporting assigned to each one.

On November 14, 2017, the Commission received and adopted reports from its subcommittees on Roadway Safety and Education & Prevention which presented the most current and reliable data available relevant to various health and safety issues. These subcommittees have continued to work on updating the information contained in those initial reports. On January 15, 2018, the Commission submitted its Report and Recommendations addressing 12 preliminary issues specifically delineated by the EO including the need for roadside impairment testing protocols and analyses of resources necessary to address cannabis use and availability in Vermont. Further investigation and research continues to be pursued to confirm and enhance these recommendations in light of developing facts, science, law, and the practical experiences of jurisdictions within and outside the United States that have legalized cannabis use and/or trade.

The Commission is now in the process of developing recommendations for a viable, safe and efficient regulated cannabis market that does not increase burdens on the State and ameliorates potential harm to the public. To this end the subcommittees have and will continue to work on gathering available resources to craft recommendations for inclusion in the Commission's final report due December 15, 2018. A brief description of each subcommittee's activities and plans since the Commission's April 1, 2018 Status Report follows.

#### Taxation and Regulation

On March 26, 2018, the Taxation and Regulation Subcommittee held a strategy and planning meeting and tasked members of the Subcommittee to identify, discuss, and

formulate recommendations on key issues for creating a taxed and regulated system for adult-use marijuana. Members were assigned to issue-specific subgroups, all of which met at least once between April and June. The subgroups were composed as follows:

- Alternative Forms of Use (Edibles, Vaping, etc.): DPS and AAFM
- Business Infrastructure & Legal Structures: DFR, Banks, Credit Unions, Jon Jamieson (business member), and ACCD
- Consumer Protection: AAFM and DLC
- Diversion Prevention: DLC and DPS
- Hemp: AAFM
- Licensing: Vermont Coalition to Regulate Marijuana, AAFM, DLC, DPS
- Local Control: VLCT and DLC
  - VLCT requested input from the Vermont Planners Association and the Director of Planning and Zoning in the town of Hinesburg
- Medical Marijuana: DPS
- Revenue: TAX, ACCD, and DLC
- Marijuana in the Workplace: ACCD and Stephen Monahan, Vermont Department of Labor

The Subcommittee reconvened on June 15, 2018 to hear reports back from the subgroup meetings and discuss initial recommendations. The Subcommittee will meet again on July 20, 2018 and once a month thereafter to continue group discussions, to make written recommendations, and to specify any necessary legislative changes. The list of recommended legislative changes will start from and build upon the framework of H.490, the most recent bill introduced in the 2017-2018 legislative biennium that addressed a regulated marijuana market. The Subcommittee plans to provide the full Commission with timely recommendations to consider for the final report to the Governor.

### Roadway Safety

Since it last met, the Roadway Safety Subcommittee received updates from DPS Commissioner Anderson regarding two matters of relevance to the Commission's work. First, the Department of Public Safety (DPS) is recruiting 9 new Drug Recognition Experts (DREs) to bolster law enforcement efforts to detect impaired drivers. These new DREs will supplement the current 50 DREs deployed around the state. Second, the DPS issued an important training bulletin for the Vermont State Police in anticipation of the July 1, 2018 effective date of the recently enacted "home-grown" legalization law.

The Subcommittee is scheduled to meet next on July 26, 2018. At that meeting, the Subcommittee will review the work of the Taxation and Regulation Subcommittee, in order to begin the process of formulating its own recommendations for the December 2018 report. Specifically, the following recommendations set forth in Section III (3) of the EO fall within the Subcommittee's charge and will be addressed:

- "Recommend a business plan for a comprehensive regulatory and revenue system which completely self-funds the regulatory infrastructure at both the State

and local level, including . . . Required equipment and/or staffing resources required to address impaired driving due to marijuana or marijuana and alcohol at both the State and local level . . .”

- “Determine a set impairment threshold for operating a motor vehicle on State roads and highways, identify an appropriate impairment testing mechanism, and/or recommend increased DREs and training . . .”
- “Recommend a plan for continued monitoring and reporting on impacts to public health, with specific reference to the health endpoints listed in Section III(1) above” (focusing on “injury and death” and “crime rates”)
- “Other miscellaneous issues,” which might include additional search and seizure considerations, or other topics.

The Roadway Safety Subcommittee also will continue to track scientific research relating to the “injury and death” and “crime rates” health and safety endpoints in the EO, and specifically will continue to focus on the research questions set forth in the Subcommittee’s November 2017 report:

- Is marijuana use, alone or in combination with other substances, associated with an increased risk of (1) motor vehicle crashes and (2) motor vehicle fatalities?
- Is marijuana legalization associated with an increased risk of (1) motor vehicle crashes and (2) motor vehicle fatalities?
- Do crime rates (i.e., rates of violent crime, property crimes or other collateral crimes) increase or decrease when marijuana is (1) decriminalized or (2) legalized for recreational use?

In addition, the Subcommittee will be monitoring anticipated and unanticipated highway and public safety impacts of the “home-grown” legalization law enacted with an effective date of July 1, 2018.

### Education and Prevention

The Education and Prevention Subcommittee continues to make progress on its overall goal of delivering final recommendations with funding and implementation plans to the full Commission by the end of October. The workplan includes taking further testimony from local and national subject matter experts and reviewing the reports and recommendations of each working group the subcommittee assigned defined tasks to in March.

At the May 31, 2018, subcommittee meeting new and concerning data from the 2017 Youth Risk Behavior Survey was reviewed which revealed an increase from 2015 in past 30-day alcohol use (from 30% to 33%) and marijuana use (from 22% - 24%). With

concomitant use common. These facts renew concern about the impact on youth driving risk.

Testimony and resources were also provided by Holly Morehouse, the Executive Director of After School Inc., a state-wide non-profit focused on the 3 – 7 PM timeframe in youth lives, a time of challenge and opportunity that can be focused on building protecting factors and preventing substance use. Strong evidence from Iceland, Finland and recently Alaska support such an approach.

Finally, preliminary working group reports were also received from the groups addressing school-based programs, community-based programs and potency and alternative delivery systems.

The next several meetings will further focus on the recommendations of the fore-mentioned working groups as well as review the reports of workgroups dedicated to messaging, policy and research and surveillance. On July 27, a representative from the Rhode Island Department of Business Regulation will discuss RI's marijuana regulations and the challenges of beginning with a home grow program and subsequently developing a taxation and regulation structure. All subcommittees have been invited.

### Conclusion

Each of the Subcommittees plans to continue to invite stakeholders and experts to present on the topics within their charge. And while no final recommendations have been crafted at this time, the Commission believes it is useful to note some of the subject matter areas that have thus far presented as critical issues that will inform the ultimate recommendations offered by the Commission, including:

1. Challenges associated with the federal prohibition and classification as a Schedule 1 drug of cannabis, including access to banking, insurance and other regulated business services;
2. Youth issues including education, prevention and addressing the increasing incidences and popularity of "juling" and vaping among school aged children;
3. Health issues such as novel delivery formulations and the combination of cannabis with nicotine and/or other substances;
4. Issues about regulating the size or form of cannabis businesses and how the State will engage with any cannabis industry created by statute;
5. Local control and costs, particularly with regard to zoning, permitting, prohibition and public safety;
6. Highway safety issues including the possibility of adopting a zero tolerance policy in the face of challenges to available roadside testing methods;
7. Effectively eliminating the black market in an environment of varying state laws that will continue to lure illicit trade in cannabis by providing opportunities to

profit from illegal sales and practices and recognition of the serious environmental hazards that can be expected to be created by illegal and unregulated cannabis cultivation; and

8. The need to develop a comprehensive assessment of the true costs to Vermont and its citizens that will attend the creation of a taxed and regulated cannabis market, including the increased need for education, youth prevention strategies and programs, public safety resources on the state and local level, and the costs of creating the systems necessary to regulate and enforce any new regulatory scheme. Once these costs are identified, any taxation plan must be balanced against the reality that taxation of a legalized product must not be so onerous as to drive consumers to illicit markets and that resources to prosecute actors operating outside prescribed laws are available and applied.

While this list is far from exhaustive, it serves to highlight the complexity of the matters the Commission is charged to address and to caution against any illusion that simple answers will prove a panacea to historically intractable problems such as substance abuse, illicit trade and public safety concerns.

The Co-Chairs continue to be in communication with the chairs of the subcommittees to ensure that the work prescribed by the EO continues at a pace that will allow the presentation of a comprehensive report to the Governor on December 15, 2018. As the subcommittees develop their assigned projects the Co-Chairs will convene the Commission in August 2018 to hear updates, gather information and coordinate the work of the Subcommittees.

Respectfully submitted,

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