# Marijuana Legislation in 2018 Session

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## **OVERVIEW OF 2017 BILLS**

## H.511, S.22, H.167, H.170, H.490



#### **Topics of 2017 Bills**

H.511	<ul> <li>House passed: DUI; open container &amp; consumption penalties</li> <li>Senate amended: allows home grow, includes public safety</li> </ul>
S.22	<ul> <li>As passed both houses: no civil penalties for amounts under possession limit; allows home grow</li> </ul>
H.167	<ul> <li>House passed: public health focus; legislative study</li> <li>Senate amended: home grow; recreational 25% retail sale tax</li> </ul>
H.170	• House passed: home grow
H.490	• House as introduced: no home grow, but co-ops; adult use 15% wholesale tax; 10% retail sale tax; 2.5% local retail sale tax



#### Status of 2017 Bills

H.511	<ul> <li>House: passed.</li> <li>Senate: amended with S.22 language, messaged to House. No rules suspension by House for June's special veto session. Could be taken up by House at any time.</li> </ul>
S.22	<ul> <li>Passed both bodies. Vetoed by Governor. On notice calendar in Senate. Could be taken up by Senate at any time.</li> </ul>
H.167	<ul> <li>House: passed.</li> <li>Senate: amended, messaged to House; ordered to lie. Could be taken up by House at any time.</li> </ul>
H.170	<ul> <li>House: passed after crossover deadline.</li> <li>Senate: referred to Committee on Rules; could be referred to Senate committee.</li> </ul>
H.490	• House: referred to Committee on General, Housing & Military Affairs.



# H.511 WALK-THROUGH

Definitions, possession, consumption, personal cultivation, under-age issues, offenses, Marijuana Regulatory Commission



#### H.511: Definitions

#### 18 V.S.A. § 4201 (H.511 - new)

#### § 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

\* \* \*

(15)(A) "Marijuana" means all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant;

and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) "Marijuana" does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

\* \* \*

(43) "Immature marijuana plant" means a female marijuana plant that has not flowered and that does not have buds that may be observed by visual examination.

(44) "Mature marijuana plant" means a female marijuana plant that has flowered and that has buds that may be observed by visual examination.

#### 18 V.S.A. § 4201 (current)

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

\* \* \*

(15) "Marijuana" means any plant material of the genus cannabis or any preparation, compound, or mixture thereof except:

(A) sterilized seeds of the plant;

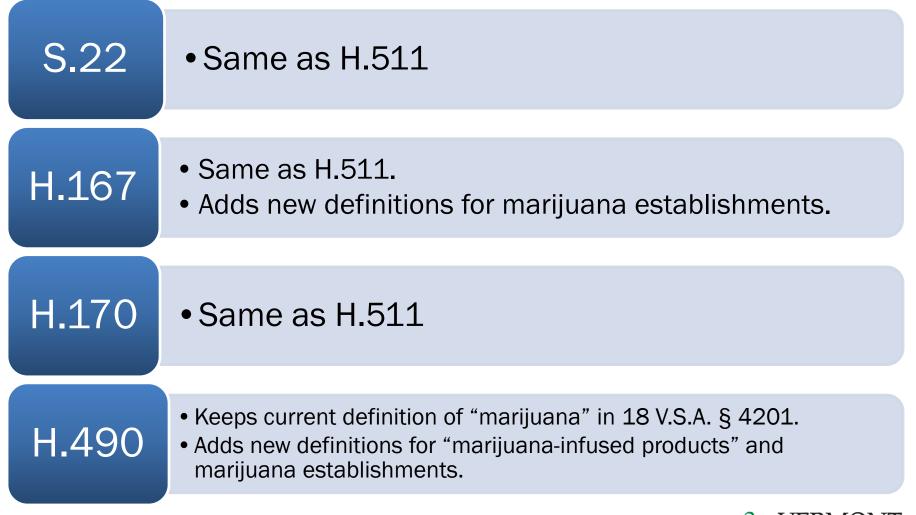
(B) fiber produced from the stalks;

or

(C) hemp or hemp products, as defined in 6 V.S.A. § 562.



#### **Other Bills: Definitions**



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#### H.511: Possession; Criminal

## 18 V.S.A. § 4230

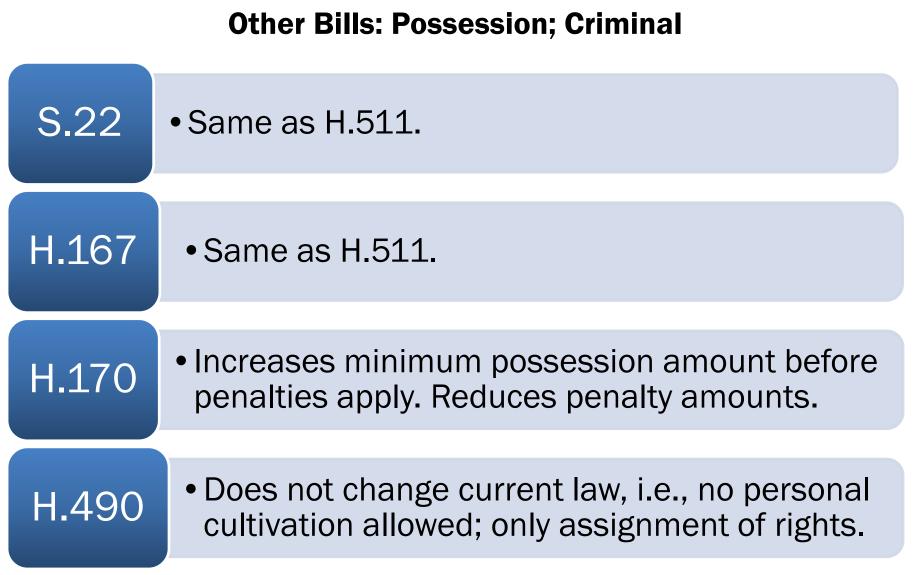
## Current law

- already allows possession of up to one ounce of marijuana or 5 grams of hashish without <u>criminal</u> penalty; prohibits cultivation
- H.511
  - removes prohibition on cultivation, but limits permissible amount to 2 mature and 4 immature marijuana plants
  - does not count in possession limit the amounts of marijuana cultivated, harvested, and stored under new § 4230e

### Criminal penalties

- depends on # of offenses and amount possessed or cultivated over possession limit.
  - H.511 changes amounts allowed.
- range from \$500 fine and 6 months imprisonment to \$500,000 fine and 15 years imprisonment







#### **H.511:** Possession; Civil Penalties

## 18 V.S.A. § 4230a

- Current law
  - imposes <u>civil</u> penalties for possession one ounce or less of marijuana or 5 grams or less of hashish
- H.511
  - removes civil penalties on possession under limit, allows cultivation of up to 2 mature and 4 immature marijuana plants
  - does not count in possession limit the amounts of marijuana cultivated, harvested, and stored under new § 4230e



#### **Other Bills: Possession; Civil Penalties**

S.22	<ul> <li>Mostly the same as H.511; only difference is whether marijuana is treated as contraband.</li> </ul>
H.167	<ul> <li>Mostly the same as H.511; only difference is whether marijuana is treated as contraband.</li> </ul>
H.170	<ul> <li>Retains and reduces current civil penalties for possession of marijuana.</li> </ul>
H.490	<ul> <li>Retains current civil penalties for possession of marijuana.</li> </ul>



#### **H.511: Consumption**

## 18 V.S.A. § 4230a

## • No consumption of marijuana in a public place

 "Public place" is defined as "any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation [...] and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute [...] is prohibited by law."

## Civil penalties for public consumption

- -1st offense: up to \$100;
- 2nd offense: up to \$200; and
- 3rd or subsequent offense: up to \$500.



## H.511: Consumption 18 V.S.A. § 4230a

What this section does NOT do:

- Driving and marijuana
  - No exemption from arrest, citation, or prosecution
  - No change to existing laws on driving under the influence or consuming marijuana while driving

#### • Property issues

- Does not limit authority of schools to impose administrative penalties for possession on school property
- Does not prohibit towns from adopting ordinances for additional public consumption penalties
- Does not prohibit landlords from banning possession or use in a lease agreement
- Does not allow possession or use by inmates or those under court order, parole, etc.

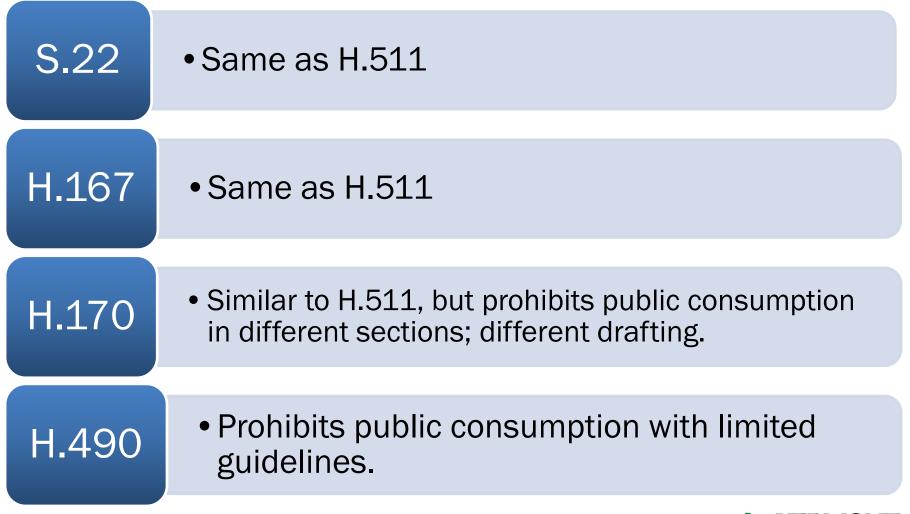
DEPARTMENT OF TAXES

## H.511: Consumption 18 V.S.A. § 4230a

- Marijuana and Employment
  - No requirement to allow use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in workplace
  - Employers may adopt a policy prohibiting use in workplace
  - No cause of action created against employers who fire employees for violating a policy that restricts or prohibits use by employees
  - Employers may prohibit use, consumption, growing, etc., on employer's premises



#### **Other Bills: Consumption**





#### **H.511: Personal Cultivation**

## 18 V.S.A. § 4230e (new)

- Cultivation limit: 2 mature & 4 immature marijuana plants
  - Per dwelling limit regardless of how many 21+ year old persons reside in dwelling unit.
    - "Dwelling unit" defined as: "a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household."
  - Marijuana harvested from these plants does not count toward 1 ounce possession limit provided that:
    - it is stored in an indoor facility on the property where the marijuana was cultivated and
    - reasonable precautions are taken to prevent unauthorized access to the marijuana.
- Minimum age: 21



#### **H.511: Personal Cultivation**

## 18 V.S.A. § 4230e (new)

#### Location

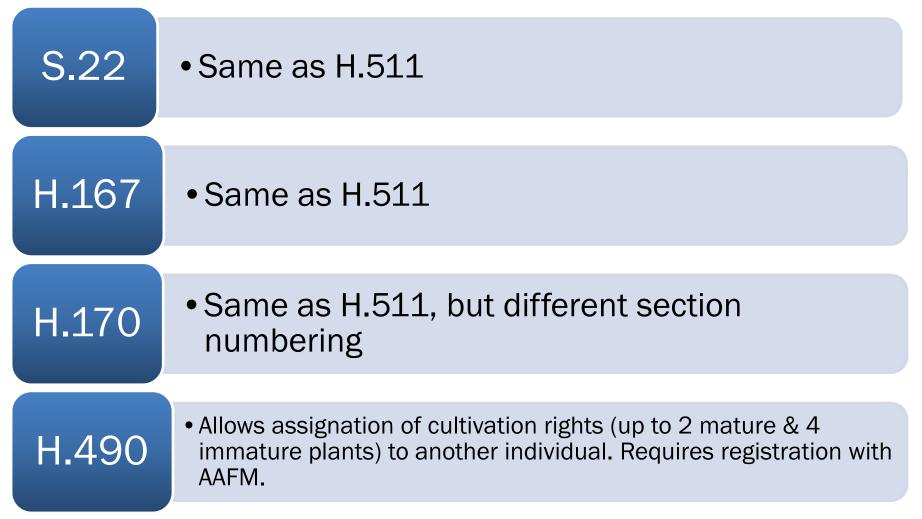
- property lawfully in possession of cultivator or with consent of person in lawful possession of property;
- in an enclosure screened from public view and secure so access is limited to cultivator and persons 21 years of age or older who have permission from cultivator.

## Civil penalties for violations

- 1st offense: up to \$100;
- 2nd offense: up to \$200; and
- 3rd or subsequent offense: up to \$500.



#### **Other Bills: Personal Cultivation**





#### H.511: Under-Age Issues

## 18 V.S.A. § 4230b

• Changes civil penalties for possession by person under 21 to include possessing 2 mature or 4 immature plants or fewer.

## 18 V.S.A. § 4230d

Repeals delinquency offense of possession of marijuana by a person under 16.

## 18 V.S.A. § 4230f (new)

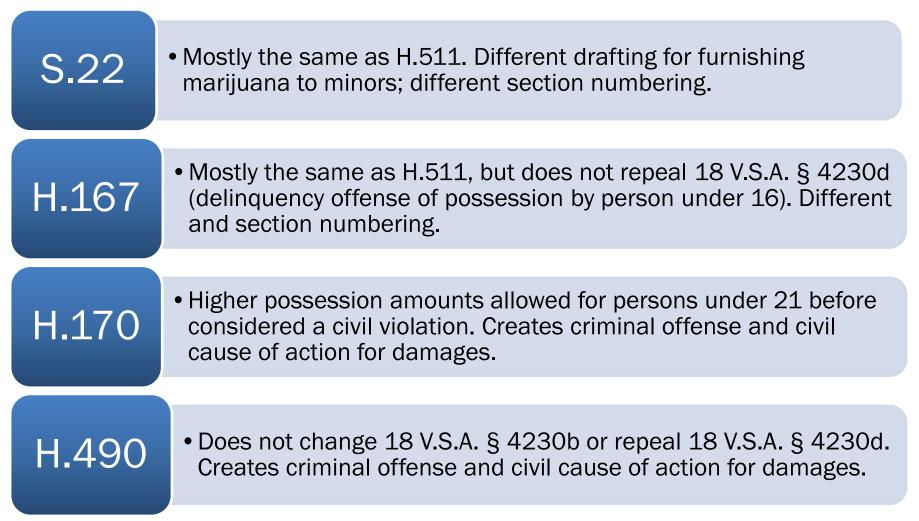
Creates criminal offense of dispensing to persons under 21.
 Separate penalties for dispensation to persons under 21 by a person under 21.

## 18 V.S.A. § 4230g (new)

• Creates civil action for damages (in person, property, or means) for dispensing to persons under 21.



#### **Other Bills: Under-Age Issues**





#### H.511: Motor Vehicle-Related Offenses

## 23 V.S.A. §§ 1134, 1134a

- Prohibit consumption of marijuana while driving, including inhaling secondhand marijuana smoke
- Prohibit open containers of marijuana in passenger area of vehicle and impose \$200 penalty for violations

## 23 V.S.A. § 1134b

- Creates misdemeanor crime of using marijuana in a motor vehicle occupied by a child under 18. Violation results in:
  - Penalties from \$500-\$1,000 depending on # of offenses.
  - 2 points assessed on license

## 33 V.S.A. § 3504

• Creates misdemeanor crime of marijuana use or cultivation at child care facility. Violations subject to penalties from \$500-\$1,000 depending on # of offenses.



Other Bills: Motor Vehicle-Related Offenses		
S.22	<ul> <li>Similar offenses as H.511, but much less severe penalties (or none).</li> </ul>	
H.167	<ul> <li>No new penalties. Requires: AOT Highway Safety Program to expand public education and report to Legislature. Requires data reporting on impaired driving. Requires law onforcement training</li> </ul>	
	<ul> <li>reporting on impaired driving. Requires law enforcement training.</li> <li>Similar offenses as H.511, but much less severe</li> </ul>	
H.170	penalties (or none).	
H.490	• None	



#### H.511: Other Miscellaneous Offenses

## 18 V.S.A. § 4230h (new)

 Creates new offense of chemical extraction or chemical synthesis using butane or hexane unless authorized by DPS as a registered marijuana dispensary

## 18 V.S.A. § 4230i (new)

 Certain felony convictions also result in civil violation and/or misdemeanor, and will be assessed penalties or imprisoned

## 18 V.S.A. § 4476

 Amends criminal offense for selling drug paraphernalia to persons under 18



Other Bills: Other Miscellaneous Offenses		
S.22	<ul> <li>Same as H.511. Different section numbering.</li> </ul>	
H.167	<ul> <li>Only includes offense of chemical extraction.</li> </ul>	
H.170	<ul> <li>Same as H.511. Different section numbering.</li> </ul>	
H.490	<ul> <li>Only includes offense of chemical extraction.</li> </ul>	



#### H.511: Marijuana Regulatory Commission

Creates a Marijuana Regulatory Commission tasked with similar duties to Governor's Marijuana Advisory Commission:

- issue a report of findings and recommendations, and
- develop legislation that
  - establishes a comprehensive regulatory and revenue system for an adult-use marijuana market that, when compared to the current illegal marijuana market,
    - increases public safety and reduces harm to public health, and
    - results in net revenue to the State.

Focus on remedying disparate impact of Vermont's drug laws on racial minorities



#### **Other Bills: Commission**





# FEES, TAXATION, AND REGULATION

H.167 and H.490



# H.167: An act relating to alternative approaches to addressing low-level illicit drug use

## Tax and Regulatory structure

- Regulated by AAFM:
  - cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana
- Administered by Dept. of Taxes:
  - 25% excise tax on retail sales
  - Marijuana excise tax license required to collect excise tax



#### H.167: An act relating to alternative approaches to addressing low-level illicit drug use

## Fees

- Application, initial & annual renewal license fees (pro-rated if application submitted during transition period and applicant not selected):
  - Cultivator: \$1,000-\$30,000 based on sq. footage
  - Retailer: \$15,000
  - Testing Lab: \$500 application and \$2,500 initial & renewal
  - Change of Corporate Structure: \$1,000
  - Change of Name: \$1,000
  - Change of location: \$1,000
  - Modification of license premises: \$250
  - Addition of financier: \$250
  - Duplicate license: \$100
  - Background check fee: \$50



## Tax and Regulatory structure

- Regulated by AAFM:
  - cultivators, wholesalers, product manufacturers, retailers, and testing laboratories.
- Individuals may assign their right to cultivate to another individual, who may hold rights from up to 10 other individuals.
- Taxes administered by Dept. of Taxes



## Taxes

- 15% wholesale sales tax
  - paid by wholesaler, product manufacturer, or cultivator
- 10% retail sales tax
  - paid by buyer
  - based on retail sales price of marijuana or marijuanainfused products
  - floor prices based on quantity and form of product:
    - Min. \$12.00 per ounce of marijuana;
    - \$4.00 per quarter ounce of marijuana; or
    - \$2.00 per unit of marijuana-infused products
- 2.5% local tax on buyer based on retail sales price

DEPARTMENT OF TAXES

## Revenues

Tax revenue intended to cover expenses of regulating marijuana sales, allocated to General Fund and towns where sales are made.



## **License Fees**

- Nonrefundable application fee (pro-rated if application submitted during transition period and applicant not selected): 25% of fee per license
- Initial application and annual renewal fees:
  - Cultivator license based on cultivation space
    - Up to 500 sq. feet: outdoor \$500; otherwise \$1,500
    - 500-10,000 sq. feet: outdoor \$1/sq. foot; indoor \$3/sq. foot
  - Wholesaler license: \$10,000
  - Product manufacturer license: \$2,500
  - Retailer license: \$10,000
  - Testing lab: \$500

