

STATE OF VERMONT
EXECUTIVE DEPARTMENT
EXECUTIVE ORDER NO. 15-17

[Governor's Marijuana Advisory Commission]

WHEREAS, the States of Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon and Washington and the District of Columbia have taken steps to legalize the recreational use of marijuana and/or establish systems for the licensing, regulation and taxation of the sale and distribution of marijuana; and

WHEREAS, Vermont must adopt a balanced approach to marijuana legalization which takes into consideration realities of current consumption levels, legalization in neighboring jurisdictions, and facts regarding local impacts, the risk of harm to our youth, impaired driving and the social consequences of drug use and addiction, particularly in the context of the State's opioid crisis; and

WHEREAS, Vermont can pursue a regional approach with the northeastern states of Maine and Massachusetts, as well as Canada, to create universal highway safety and public health regulations to ensure health and safety as it relates to recreational marijuana usage; and

WHEREAS, Vermont governors have created various executive orders over the years which address complex issues facing children and youth, public safety, criminal justice, substance abuse and population health; and

WHEREAS, even if one accepts limited recreational use of marijuana as an individual choice, this choice cannot be permitted to adversely impact public health or safety, especially roadway safety and children's health; and

WHEREAS, in order to assess the potential for a system which permits the recreational use of marijuana and/or regulates and taxes the sale and distribution of marijuana in a way which is not volume- or profit-driven or detrimental to the interests of a safe and healthy population, there is a need for a thoughtful and thorough consideration of public health, public safety and financial resource issues.

NOW THEREFORE, BE IT RESOLVED, that I, Philip B. Scott, by virtue of the authority vested in me as Governor, do hereby create the Governor's Marijuana Advisory Commission, as follows:

I. Composition and Appointments

The Commission shall be advisory to the Governor and consist of the following thirteen members:

- (1) two members appointed by the Committee on Committees;
- (2) two members appointed by the Speaker of the House;

- (3) two members appointed by the Governor, who shall be Co-Chairs;
- (4) the Secretary of Agriculture, Food and Markets or designee;
- (5) the Commissioner of the Department of Public Safety or designee;
- (6) the Commissioner of the Department of Health or designee;
- (7) the Secretary of the Agency of Commerce and Community Development or designee;
- (8) the Commissioner of the Department of Taxes or designee;
- (9) the Attorney General or designee; and
- (10) the Executive Director of the States' Attorneys and Sheriffs, or designee.

The Commission shall have three subcommittees who shall meet at least monthly, consult with experts and stakeholder groups as needed, and report findings and recommendations to the Commission on a schedule set by the Co-Chairs. Members of the Commission and subcommittees shall be appointed by the Governor for three-year terms unless otherwise specified as follows:

- (1) 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.
 - (i) Membership. This subcommittee shall be chaired by the Commissioner of the Department of Public Safety. Other members shall include the Secretary of the Agency of Transportation or designee, one member designated by the Criminal Justice Training Council, one member designated by the Vermont League of Cities and Towns, the Defender General or designee, the Director of the Vermont Forensic Laboratory or designee, one representative of the Judiciary appointed by the Chief Justice of the Vermont Supreme Court, and one emergency medical service provider.
- (2) Education and prevention. One subcommittee shall be formed to examine and present findings on how best to measure and reduce impacts on public health; how to regulate edibles; how to regulate THC concentrations in marijuana and marijuana products; how to discourage consumption of, and restrict access to marijuana by minors; and how to effectively implement evidence-based education and prevention strategies for those under 21 years of age.
 - (i) Membership. This subcommittee shall be chaired by the Commissioner of the Department of Health. Other members shall include, the Secretary of the Agency of Education or designee, one member designated by the Vermont Chapter of the American Academy of Pediatrics, one educational leader designated jointly by the Vermont Superintendents Association and the Vermont Principals' Association, one medical professional currently

practicing medicine designated by the Vermont Medical Society, one member with expertise in matters affecting at-risk Vermont youth, one substance abuse counselor, and one member with expertise in marketing.

(3) Taxation and Regulation. One subcommittee shall be formed to examine and present findings regarding the sale and taxation of marijuana for recreational use, and assess structures for doing so which address areas such as banking, landlord and tenant relationships, local zoning, insurance, host liability, economic sustainability, and reduction of the illegal marijuana market. This subcommittee shall assist the Roadway Safety and Education and Prevention Subcommittees on identifying funding strategies and options for recommended resources and programming based on a taxed and regulated marijuana market and other sources.

(i) Membership. This subcommittee shall be chaired by the Commissioner of the Department of Tax. Other members shall include the Secretary of the Agency of Commerce and Community Development or designee, the Commissioner of the Department of Financial Regulation or designee, the Chair of the Liquor Control Board, one member designated by the Vermont Bankers Association, one member designated by the Association of Vermont Credit Unions, one member designated by the Vermont League of Cities and Towns, one representative of the business community, and one member with expertise in national tax and regulatory systems designated by the Vermont Coalition to Regulate Marijuana.

II. Meetings

(1) The Governor shall call the first meeting of the Commission to occur on or before October 1, 2017. The subcommittees shall also convene their first meetings on or before October 1, 2017.

(2) A majority of membership of the Commission or each subcommittee, as the case may be, shall constitute a quorum.

III. Powers and Duties

The Commission, upon consultation with its three subcommittees, shall proceed with its work in two phases:

(1) In order to establish a common baseline understanding of the most credible data regarding health endpoints of marijuana use and safety impacts of legalization, on or before November 15, 2017, the Subcommittees on Highway Safety and Education and Prevention shall assess high-quality primary research, including evidence-based Vermont data to the extent it is available, for the following groups of health and safety endpoints and report to the Commission:

(i) **Injury and death:** All-cause mortality, occupational injury, motor vehicle crash, overdose injury and death;

- (ii) **Prenatal, perinatal, and postnatal exposure to marijuana:** Pregnancy complications for the mother, fetal growth and development, neonatal conditions, later outcomes for the infant;
- (iii) **Psychosocial:** Cognition (learning, memory, attention, intelligence), academic achievement and educational outcomes, employment and income, social relationships and other social roles;
- (iv) **Mental health:** Schizophrenia and other psychoses, bipolar disorders, depression; suicide, anxiety, posttraumatic stress disorder;
- (v) **Problem Marijuana use:** Marijuana use disorder;
- (vi) **Marijuana use and abuse of other substances:** Abuse of other substances; and
- (vii) **Crime rates:** crimes directly or indirectly shown to be related to marijuana use, production or storage in jurisdictions with marijuana legalization and decriminalization.

- (2) On or before January 15, 2018, the Commission shall produce a report making recommendations to the Governor to date regarding:
- (i) Need for the creation, implementation and funding of statewide evidence-based youth prevention programs;
 - (ii) Adequacy of and funding for substance abuse facilities;
 - (iii) Adequacy of and funding for broad-based messaging or public awareness campaigns to address the risk of harm posed by marijuana to Vermonters;
 - (iv) Adequacy of and funding for broad-based messaging or public awareness campaigns to address the dangers of driving while impaired due to marijuana, similar to those targeted to alcohol consumers;
 - (v) An appropriate impairment testing mechanism, including the possible merits of saliva-based testing standards;
 - (vi) Adequacy of and funding for drug recognition experts (DREs) and training;
 - (vii) Capacity for in-state testing and analysis of toxicology samples for DUIs related to drugs such as marijuana;
 - (viii) Feasibility of regional impairment standards;
 - (ix) 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;
 - (x) Need for a performance benchmark or benchmarks to be assessed before the further decriminalization or legalization of recreational marijuana use or establishment of a tax and regulatory system, such as the percentage of Vermont youth who recognize and understand the risk of harm posed by marijuana, a statistically significant reversal and decline in the number of major crashes due to marijuana-impaired drivers, a statistically significant reversal and decline in the number of DUIs related to marijuana, and capacity at the Department of Public Safety to meet the need for DREs and in-house analysis and toxicology testing related to marijuana;
 - (xi) Miscellaneous issues, such as host liability and landlord liability in the context of marijuana availability in homes and public places, security of marijuana storage, impacts on the cost of automobile, workers compensation

and homeowner insurance, local zoning and search and seizure considerations; and

- (xii) Changes to Vermont law required to protect those under 21 years old and ensure highway safety.

(3) Pending development of comprehensive education, prevention and highway safety strategies, on or before December 15, 2018, the Commission will provide recommendations to the Governor on implementing and operating a comprehensive regulatory and revenue system for an adult marijuana market, and accompanying legislation if deemed necessary. At a minimum, the Commission shall:

- (i) Summarize its findings to date;
- (ii) 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:
 - a. An appropriate tax rate;
 - b. 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;
 - c. The additional costs of substance abuse and treatment; and
 - d. The additional costs of public awareness campaigns and statewide evidence-based youth education and prevention programs to control access by minors.
- (iii) Recommend licensure costs and requirements;
- (iv) Estimate revenue needed to initially fund a comprehensive net-revenue generating regulatory and revenue system from public and private investment, licensing and operating fees, and grant sources;
- (v) 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;
- (vi) 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;
- (vii) Make recommendations regarding:
 - a. Workplace safety and if it is appropriate to reform workplace drug testing laws;
 - b. Impacts on the economy as a result of third party liability such as restrictions on banking due to Federal laws;
 - c. Appropriate measures to address pesticide use, quality control, and labeling for marijuana products;
 - d. If there is a business model that will grow the rural economy by giving existing Vermont farmers licensing and regulatory preference for commercial operations; and
 - e. Other miscellaneous matters as determined necessary and appropriate by the Commission.

The Commission will provide ongoing reporting to the Governor on April 1, 2018, July 1, 2018, and October 1, 2018 regarding progress on the foregoing.

IV. Assistance

The Commission shall have the administrative, technical, and legal assistance of the Office of the Governor and the Secretary of Administration. Each subcommittee shall have the technical, legal, and administrative support of the Agency or Department of each respective subcommittee Chair.

V. Expense Reimbursement

I hereby authorize per diem compensation and reasonable and necessary expense reimbursement for travel and food for members who are not full-time State employees pursuant to 32 V.S.A. § 1010(e).

VI. Effective Date

This Executive Order shall take effect upon execution.



WITNESS my name hereunto subscribed and the Great Seal of the State of Vermont hereunto affixed at Montpelier this 7th day of September, 2017.

A handwritten signature in black ink, appearing to read "Philip B. Scott", is written over a horizontal line.

Philip B. Scott
Governor

By the Governor:

A handwritten signature in black ink, appearing to read "Brittney L. Wilson", is written over a horizontal line.

Brittney L. Wilson
Secretary of Civil and Military Affairs

EXECUTIVE ORDER 15-17