

PHILIP B. SCOTT
Governor



State of Vermont
OFFICE OF THE GOVERNOR

October 7, 2020

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Today I am letting S.54, *An act relating to the regulation of cannabis*, go into law without my signature.

I have consistently called for any legislation creating a regulated cannabis marketplace in Vermont to meet three key objectives:

- Towns and municipalities should be required to opt-in to hosting retail establishments;
- There should be a plan and significant funding for additional education and prevention efforts for our children; and
- There must be a plan for highway safety.

The Legislature has made substantial progress in addressing these objectives and this effort is appreciated. However, there is still more work to be done to ensure the health and safety of our kids and the safety of our roadways – we should heed the public health and safety lessons of tobacco and alcohol. Further, I believe we are at a pivotal moment in our nation's history which requires us to address systemic racism in our governmental institutions. We must take additional steps to ensure equity is a foundational principle in a new market.

Again, I commend the Legislature for moving toward my conditions. This bill requires cities and towns to take action before retail establishments may open. It ensures local zoning applies to cannabis cultivation and production. And it dedicates 30 percent of the excise tax to education and prevention efforts, up to \$10,000,000 per year and the sales and use tax portion on retail cannabis to fund a grant program to start or expand afterschool and summer learning programs. Additionally, the FY21 budget includes language I proposed to take steps towards achieving a universal afterschool network, which is based on a successful model from Iceland and is focused on *preventing* drug use and improving academic and social outcomes.

The Honorable John Bloomer, Jr.

October 7, 2020

Page Two

We know that drugged driving is currently a problem on our roads which must be addressed, regardless of whether we have a retail cannabis market. While the bill does not allow for roadside saliva testing to detect presence of drugs in an individual, I am pleased the bill allows the testimony of a trained officer, or a Drug Recognition Expert (DRE), regarding impairment will be presumed admissible. The Legislature has also recognized the need for additional training for all officers to detect roadside impairment. And, saliva testing, if performed, may be used as evidence. These are important steps, but please know that I will continue to push for more solutions that will deter drugged driving, hold drugged drivers accountable, and keep Vermonters safe while on our roads.

Here are some additional improvements that need to be made to this legislation:

First, despite testimony and proposed legislation presented to the committees of jurisdiction early in the session, the concerns with this bill of the communities historically most negatively affected by cannabis enforcement were not meaningfully incorporated into this bill. Of primary concern is the licensing construct which will disproportionately benefit Vermont's existing medical dispensaries by giving them sole access to integrated licenses and an unfair head start on market access. This creates an inequitable playing field both for our smaller minority and women-owned business applicants, and other small Vermont growers and entrepreneurs.

I encourage the Legislature to look to the State of Illinois as a benchmark in how to create a cannabis market that is equitable and moves toward economic justice. We have already enacted similar provisions such as expungement measures. However, some of the additional supports the Legislature should consider include creating a social equity applicant category for cannabis establishment licenses; a 50 percent licensing fee waiver for these applicants; and additional technical and financial supports. And in the event the Legislature maintains the current integrated licensing structure, to make it more equitable revenues from those licensees could be directed to benefit social equity applicants and the communities historically most negatively impacted by cannabis enforcement. Again, justice should be *foundational* to our work, not an add-on to be figured out secondary to commercial or other interests.

The bill creates other foundational issues that the Legislature must take time to address in January. These include:

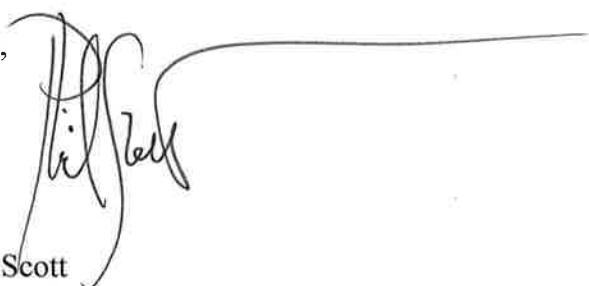
- Authorization for the sale of cannabis vaping products. Over the past two years we have been collaborating on ways to minimize vaping from a public health perspective and the bill's authorization for the production and sale of cannabis oil vaping products is completely contradictory and counter to our public health goals.

The Honorable John Bloomer, Jr.
October 7, 2020
Page Three

- There is conclusive scientific evidence that cannabis use has very negative effects for development when used in youth. We must ensure cannabis products, including edibles, are not in any way marketed to kids – or marketed in a way that appeals to kids. Again, we should apply the lessons learned from the public health epidemic caused by tobacco and the marketing restrictions and prevention strategies that states have applied to address it.
- The timeline which anticipates the recruitment, nomination and appointment of the cannabis control board members by January 8, 2021, with senate advice and consent by January 15, 2021 is too aggressive and may need to be extended.
- Board members, exempt employees appointed by the Governor, are now only removable for cause by the other Board members. This removes the Board from accountability to the Governor and constitutes an unconstitutional usurpation of the Governor's constitutional duty to faithfully execute the laws. This is a provision that exposes all of the work of the board to legal challenges.
- The 30% excise tax set-aside for misuse prevention programming must be dedicated to a special fund for that purpose to be allocated by the Commissioner of Health. As passed, this funding could be raided by the Legislature and used for other unrelated purposes.
- While law enforcement is directed to receive at least 16 hours of advanced roadside impaired driving enforcement training, there is no funding and no resources dedicated to this purpose which will take multiple years to accomplish. This needs to be rectified.

I know it is difficult to take on these complex issues remotely and during this unprecedented pandemic. Again, I thank the legislators who worked to move toward me over the past two years on this issue. Nevertheless, the Legislature has much more work to do to ensure equity in this new policy and to prevent their work from becoming a public health problem for current and future generations. For these reasons, I am allowing this bill to become law without my signature.

Sincerely,



Philip B. Scott
Governor

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