

1 S.95

2 Introduced by Senator Zuckerman

3 Referred to Committee on

4 Date:

5 Subject: Public safety; marijuana; regulation of marijuana establishments

6 Statement of purpose of bill as introduced: This bill proposes to:

- 7 1. Permit a person who is 21 years of age or older to possess limited
8 amounts of marijuana for personal use, while retaining civil and
9 criminal penalties for possession above the limits and for unauthorized
10 dispensing or sale of marijuana.
- 11 2. Provide civil penalties for a person who is under 21 years of age who
12 possesses marijuana or attempts to procure marijuana from a registered
13 marijuana establishment.
- 14 3. Establish a Marijuana Control Board within the Department of Public
15 Safety. The Board would be responsible for rulemaking and
16 administering registrations for marijuana establishments.
- 17 4. Create a regulatory structure for the cultivation, production, testing, and
18 sale of marijuana that includes oversight by the Marijuana Control
19 Board and the Department of Public Safety.
- 20 5. Permit a nonprofit dispensary or a benefit corporation to register with
21 the Marijuana Control Board as a Marijuana Cultivator, Marijuana

- 1 Product Manufacturer, Marijuana Testing Laboratory, Marijuana
2 Retailer, or Marijuana Lounge.
- 3 6. Permit municipalities to prohibit or regulate marijuana establishments.
- 4 7. Retain criminal penalties for operating a motor vehicle under the
5 influence of a drug.
- 6 8. Prohibit smoking marijuana in a public place.
- 7 9. Establish an excise tax of \$40.00 per ounce on marijuana flowers,
8 \$15.00 per ounce on any other marijuana, and \$25.00 on each immature
9 marijuana plant sold by a cultivator.
- 10 10. Distribute funds generated by marijuana taxes to initiatives focusing
11 on public education about the safety risks of alcohol, tobacco, and
12 marijuana, evidence-based criminal justice programs and substance
13 abuse treatment services, law enforcement, municipalities that have
14 marijuana establishments in their jurisdictions, the Youth Substance
15 Abuse Safety Program, and academic and medical research on
16 marijuana.

17 An act relating to regulation and taxation of marijuana

18 It is hereby enacted by the General Assembly of the State of Vermont:

19 Sec. 1. FINDINGS

20 The General Assembly finds:

1 (1) Marijuana is commonly used in Vermont with an estimated 80,000
2 residents having used marijuana in the last month.

3 (2) More than 75 years of criminalizing marijuana has failed to prevent
4 marijuana use. A study published in the American Journal of Public Health
5 found that no evidence supports the claim that criminalization reduces
6 marijuana use.

7 (3) Responsible use of marijuana should be treated the same as
8 responsible use of alcohol, the abuse of either treated as a public health matter,
9 and irresponsible use of either that causes harm to others sanctioned with
10 penalties.

11 (4) Policymakers recognize legitimate federal concerns about marijuana
12 reform and seek through this legislation to provide better control of access and
13 distribution of marijuana in a manner that prevents:

14 (A) distribution of marijuana to persons less than 21 years of age;

15 (B) revenue from the sale of marijuana from going to criminal
16 enterprises;

17 (C) diversion of marijuana to states that do not permit possession of
18 marijuana;

19 (D) State-authorized marijuana activity from being used as a cover or
20 pretext for trafficking of other illegal drugs or activity;

1 (E) violence and the use of firearms in the cultivation and distribution
2 of marijuana;

3 (F) drugged driving and the exacerbation of any other adverse public
4 health consequences of marijuana use;

5 (G) growing of marijuana on public lands and the attendant public
6 safety and environmental dangers posed by marijuana production on public
7 lands; and

8 (H) possession or use of marijuana on federal property.

9 (5) Lawful regulation of marijuana can shift demand away from the
10 illegal market and the inherent public health and safety risks associated with
11 the illegal market.

12 (6) Revenue generated by comprehensive, reasonable regulation of
13 marijuana can support prevention, education, treatment, and law enforcement
14 efforts resulting in a net reduction in public harm and an overall improvement
15 in public safety.

16 Sec. 2. 20 V.S.A. chapter 119 is added to read:

17 CHAPTER 119. MARIJUANA

18 Subchapter 1. General Provisions

19 § 2101. DEFINITIONS

20 As used in this chapter:

21 (1) “Board” means the Marijuana Control Board.

1 (2) “Commissioner” means the Commissioner of Public Safety.

2 (3) “Cultivator” means an entity that is registered pursuant to this
3 chapter to cultivate, prepare, package, and sell marijuana to a retailer, a
4 marijuana lounge, a product manufacturer, or another cultivator.

5 (4) “Department” means the Department of Public Safety.

6 (5) “Dispensary” means a nonprofit entity registered under 18 V.S.A.
7 § 4474e which acquires, possesses, cultivates, manufactures, transfers,
8 transports, supplies, sells, or dispenses marijuana, marijuana-infused products,
9 and marijuana-related supplies and educational materials for or to a registered
10 patient who has designated it as his or her center and to his or her registered
11 caregiver for the registered patient’s use for symptom relief.

12 (6) “Immature marijuana plant” means a marijuana plant that has not
13 flowered and which does not have buds that may be observed by visual
14 examination.

15 (7)(A) “Marijuana” means all parts of the plant Cannabis sativa L.,
16 except as provided by subdivision (B) of this subdivision (6), whether growing
17 or harvested, and includes:

18 (i) the seeds of the plant;

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

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

1 (B) “Marijuana” does not include:

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

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

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

7 (iv) the sterilized seed of the plant that is incapable of
8 germination.

9 (8) “Marijuana establishment” means a cultivator, product manufacturer,
10 testing laboratory, retailer, or marijuana lounge registered pursuant to this
11 chapter.

12 (9) “Marijuana lounge” means an entity registered pursuant to this
13 chapter to sell marijuana or marijuana-infused products to consumers for
14 on-site or off-site consumption.

15 (10) “Marijuana product manufacturer” or “product manufacturer”
16 means an entity registered pursuant to this chapter to manufacture, prepare, and
17 package marijuana-infused products and hashish, and to sell marijuana,
18 including hashish, and marijuana-infused products to a retailer, marijuana
19 lounge, or another product manufacturer.

20 (11) “Marijuana-infused products” means products that are composed of
21 marijuana and other ingredients and are intended for use or consumption,

1 including tinctures, oils, solvents, and edible or potable goods. Only the
2 portion of a marijuana-infused product that is attributable to marijuana shall
3 count toward the possession limits of this subchapter. The weight of marijuana
4 that is attributable to marijuana-infused products shall be determined according
5 to methods set forth in rule by the Department of Public Safety in accordance
6 with 18 V.S.A. chapter 86 (therapeutic use of cannabis).

7 (12) “Mature marijuana plant” means a female marijuana plant that has
8 flowered and which has buds that may be observed by visual examination.

9 (13) “Possession limit” means the amount of marijuana that may be
10 possessed at any one time by an individual 21 years of age or older.

11 (A) For a Vermont resident, the possession limit is no more than:

12 (i) two mature marijuana plants;

13 (ii) seven immature marijuana plants;

14 (iii) one ounce of marijuana; and

15 (iv) any additional marijuana produced by the person’s marijuana
16 plants, provided that any amount of marijuana in excess of one ounce of
17 marijuana must be possessed in the same secure indoor facility where the
18 plants were cultivated.

19 (B) For a nonresident, the possession limit is no more than
20 one-quarter of an ounce of marijuana.

1 (14) “Public place” means any street, alley, park, sidewalk, public
2 building other than individual dwellings, or any place of public
3 accommodation as defined in 9 V.S.A. § 4501. It does not include a marijuana
4 lounge.

5 (15) “Retailer” means an entity registered pursuant to this chapter to sell
6 marijuana, marijuana-infused products, or marijuana paraphernalia to
7 consumers for off-site consumption.

8 (16) “Secure indoor facility” means a building or room equipped with
9 locks or other security devices that is accessible only by adults who are
10 21 years of age or older.

11 (17) “Testing laboratory” means a facility registered pursuant to this
12 chapter to test marijuana for potency and contaminants.

13 (18) “Usable marijuana” means the dried leaves and flowers of
14 marijuana and does not include the seeds, stalks, and roots of the plant.

15 § 2102. BOARD OF MARIJUANA CONTROL

16 (a) There is created a Board of Marijuana Control within the Department of
17 Public Safety. The Board shall:

18 (1) adopt rules in accordance with this chapter and 3 V.S.A. chapter 25;

19 (2) administer the registration of marijuana establishments in
20 accordance with this chapter and rules adopted pursuant to this chapter;

1 (3) collaborate with the Department regarding enforcement of this
2 chapter; and

3 (4) submit an annual budget to the Governor.

4 (b)(1) The Board shall consist of five members who shall be appointed by
5 the Governor in consultation with the Commissioner, and approved by the
6 Senate. The Governor shall designate one of the members as Chair. A
7 member appointed by the Governor when the General Assembly is not in
8 session shall be subject to approval by the Senate at its next regular, special, or
9 adjourned session.

10 (2) Except as provided in subdivision (3) of this subsection (b),
11 members shall be appointed for three-year terms.

12 (3) Of the initial member appointments, the Governor shall appoint two
13 members for one-year terms, two members for two-year terms, and one
14 member for a three-year term who shall serve as Chair. These terms shall
15 commence on September 1, 2015.

16 (4) Any vacancy shall be filled by appointment for the unexpired term.
17 The members shall serve until their successors are appointed and qualified.

18 (c)(1) No Board member shall, during his or her term or terms on the
19 Board, be an officer of, director of, organizer of, employee of, consultant to, or
20 attorney for any person subject to regulation by the Board.

1 (2) No Board member shall participate in creating or applying any law,
2 rule, or policy or in making any other determination if the Board member,
3 individually or as a fiduciary, or the Board member's spouse, parent, or child
4 wherever residing or any other member of the Board member's family residing
5 in his or her household has an economic interest in the matter before the Board
6 or has any more than a de minimus interest that could be substantially affected
7 by the proceeding.

8 (d) The annual salary of the Chairperson of the Marijuana Control Board
9 shall be the same as for the Windham County Probate Court judge. The annual
10 salary of each of the other members of the Board, each of whom shall serve on
11 a part-time basis, shall be equal to two-thirds of that of the Chairperson.

12 (e) The Board shall appoint a Director. The Director shall be a full-time
13 Executive position and shall not be included in the plan of classification of
14 State employees. The Director shall be responsible for:

15 (1) supervising and administering the operation and implementation of
16 this chapter and the rules adopted by the Board as directed by the Board;

17 (2) assisting the Board in its duties and administering the registration
18 requirements of this chapter;

19 (3) acting as Secretary to the Board, but as a nonvoting member of the
20 Board;

1 (4) employing such staff as may be required to carry out the functions of
2 the Board; and

3 (5) preparing an annual a budget for submission to the Board.

4 § 2103. ENFORCEMENT BY THE DEPARTMENT

5 The Department shall enforce the provisions of this chapter and assist the
6 Board of Marijuana Control in carrying out its duties.

7 § 2104. RULEMAKING

8 The Board shall adopt rules to implement this chapter on or before
9 March 15, 2016, in accordance with subdivisions (1)–(4) of this subsection.

10 (1) Rules concerning any marijuana establishment shall include:

11 (A) The form and content of registration and renewal applications.

12 (B) Qualifications for registration that are directly and demonstrably
13 related to the operation of a marijuana establishment, including the
14 requirement for a fingerprint-based criminal history record check for all
15 owners and officers of the proposed marijuana establishment.

16 (C) Oversight requirements.

17 (D) Inspections requirements.

18 (E) Records to be kept by registrants and the required availability of
19 the records.

1 (F) Employment and training requirements, including requiring that
2 each marijuana establishment create an identification badge for each employee
3 or agent.

4 (G) Security requirements, including lighting, physical security,
5 video, and alarm requirements.

6 (H) Restrictions on advertising, marketing, and signage, including a
7 prohibition on mass-market campaigns that have a high likelihood of reaching
8 minors.

9 (I) Health and safety requirements.

10 (J) The prohibition or regulation of additives to marijuana and
11 marijuana-infused products, including those that are toxic, designed to make
12 the product more addictive, designed to make the product more appealing to
13 children, or designed to mislead consumers. Any prohibitions may not extend
14 to common baking and cooking items.

15 (K) Procedures for the renewal of a registration, which shall allow
16 renewal applications to be submitted up to 90 days prior to the expiration of
17 the marijuana establishment's registration.

18 (L) Regulation of the storage and transportation of marijuana and
19 marijuana-infused products.

20 (M) Sanitary requirements.

1 (N) Pricing guidelines with a goal of ensuring marijuana and
2 marijuana-infused products are sufficiently affordable to undercut the illegal
3 market.

4 (2) Rules concerning cultivators shall include:

5 (A) restrictions on the use of pesticides that are injurious to human
6 health;

7 (B) standards for both the indoor and outdoor cultivation of
8 marijuana, including environmental protection requirements; and

9 (C) regulation of visits to the establishments, including the number of
10 visitors allowed at any one time and recordkeeping concerning visitors.

11 (3) Rules concerning production and sale of marijuana-infused products.

12 (A) identification of the amount of delta-9 tetrahydrocannabinol that
13 constitutes a single serving;

14 (B) limitations for each individual package of edible
15 marijuana-infused products to a single serving;

16 (C) establishment of standards for the safe manufacture of hashish;

17 (D) requirements for opaque, child-resistant packaging;

18 (E) requirements for the dissemination of educational materials to
19 consumers who purchase marijuana-infused products;

20 (F) requirements for labeling of marijuana-infused products that
21 include the length of time it typically takes for products to take effect;

1 (G) requirements that edible retail marijuana-infused products are
2 clearly identifiable, when practicable, with a standard symbol indicating that it
3 contains marijuana;

4 (H) limitations regarding the hours of operation for marijuana
5 lounges and retailers; and

6 (I) regulation of visits to the establishments, including the number of
7 visitors allowed at any one time and recordkeeping concerning visitors.

8 (4) Rules concerning marijuana and marijuana-infused product testing
9 shall include:

10 (A) requirements for random sample testing to ensure quality control
11 and that marijuana and marijuana-infused products are accurately labeled for
12 potency; and

13 (B) standards for the operation of testing laboratories, including
14 requirements for equipment and qualifications for personnel.

15 § 2105. APPLICATION FOR INITIAL REGISTRATIONS

16 (a) On or before March 15, 2016, the Board shall begin accepting the
17 following applications:

18 (1) applications for a cultivator registration, product manufacturer
19 registration, and a testing facility registration; and

1 (2) applications for a retail registration or a lounge registration from an
2 applicant that is a dispensary or a benefit corporation organized by a
3 dispensary pursuant to 11A V.S.A. chapter 21.

4 (b) Except as provided in subsection (c) of this section, on or before
5 September 15, 2016, the Board shall issue registrations to qualified applicants
6 in accordance with subdivisions (1)–(4) of this subsection.

7 (1) The Board shall issue a cultivator registration, a retail registration,
8 lounge registration, or combination thereof, to any applicant that is a
9 dispensary or a benefit corporation organized by a dispensary pursuant to
10 11A V.S.A. chapter 21, provided the applicant submits a qualified application.

11 (2) The Board shall issue cultivator registrations, testing laboratory
12 registrations, product manufacturer registrations in a number and manner that it
13 deems appropriate at this stage of implementation.

14 (c) If the Board issues fewer than four retailer registrations under
15 subsection (b) of this section, it shall accept applications for retailer
16 registrations from other applicants and issue four retailer registrations on or
17 before December 15, 2016, provided there are sufficient applicants.

18 (d) On January 15, 2017, the Board shall begin accepting additional
19 applications for each type of marijuana establishment registration and
20 subsequently issuing such registrations to qualifying applicants in accordance
21 with the following provisions:

1 (1) A marijuana establishment registration shall be issued to an
2 applicant that is a dispensary or a benefit corporation organized by a
3 dispensary pursuant to 11A V.S.A. chapter 21, provided the applicant submits
4 a qualifying application.

5 (2) The Board shall consider geographic distribution of marijuana
6 establishments when issuing registrations.

7 (3) Retail registrations issued shall not exceed 42 unless the Board
8 determines that additional retail registrations are appropriate to serve the needs
9 of the State.

10 (e) Applicants for a marijuana establishment shall meet the requirements of
11 section 2141 of this title.

12 (f) The Board shall consider an applicant's general public benefit,
13 including a commitment to paying employees a livable wage and being a good
14 environmental steward when determining whether to issue a marijuana
15 establishment registration.

16 § 2106. NOT APPLICABLE TO THERAPEUTIC USE OF CANNABIS OR
17 HEMP

18 This chapter shall not apply to activities regulated by 18 V.S.A. chapter 86
19 (therapeutic use of cannabis) or 7 V.S.A. chapter 34 (hemp).

1 Subchapter 2. Personal Possession and Cultivation of Marijuana

2 § 2121. POSSESSION OF MARIJUANA BY A PERSON 21 YEARS OF

3 AGE OR OLDER

4 (a) A person who is 21 years of age or older may:

5 (1) Possess marijuana in an amount equal to or less than the possession
6 limit.

7 (2) Transfer without remuneration no more than one ounce of marijuana,
8 and seven immature marijuana plants to another person who is at least 21 years
9 of age or a testing laboratory.

10 (3) Sell marijuana seeds or no more than seven immature marijuana
11 plants to a cultivator.

12 (b) Except as otherwise provided in this chapter, a person who engages in
13 activity described in subsection (a) of this section shall not be penalized or
14 sanctioned in any manner by the State or any of its political subdivisions, or
15 denied any right or privilege under State law.

16 (c) A person 21 years of age or older and a marijuana establishment is
17 authorized to possess, sell, or manufacture marijuana-related supplies
18 classified as drug paraphernalia under chapter 89 of this title, and to distribute
19 or sell marijuana paraphernalia to a person who is at least 21 years of age.

1 § 2122. PERSONAL CULTIVATION; RESTRICTIONS; PENALTIES

2 (a) Personal cultivation of marijuana may only occur within a secure indoor
3 facility on property lawfully in possession of the cultivator or with the consent
4 of the person in lawful possession of the property.

5 (b) A person who violates this section shall be:

6 (1) assessed a civil penalty of no more than \$500.00 for a first
7 offense; and

8 (2) imprisoned not more than six months, fined not more than \$750.00,
9 or both, for a second or subsequent offense.

10 § 2123. APPLICABILITY

11 The provisions of this chapter do not:

12 (1) Exempt a person from arrest, citation, or prosecution for being under
13 the influence of marijuana while operating a vehicle of any kind or for
14 consuming marijuana while operating a motor vehicle.

15 (2) Repeal or modify existing laws or policies concerning the operation
16 of vehicles of any kind while under the influence of marijuana or for
17 consuming marijuana while operating a motor vehicle.

18 (3) Limit the authority of primary and secondary schools to impose
19 administrative penalties for the possession of marijuana on school property.

20 (4) Allow inmates of a correctional facility to possess or use marijuana
21 or to limit the authority of law enforcement, the courts, or the Department of

1 Corrections to impose penalties on inmates who use marijuana in violation of a
2 court order, conditions of furlough, or rules of a correctional facility.

3 (5) Allow the manufacture of concentrated marijuana by chemical
4 extraction or chemical synthesis except as permitted pursuant to a marijuana
5 product manufacturer registration.

6 § 2124. SMOKING MARIJUANA PROHIBITED IN PUBLIC PLACES

7 (a) A person shall not smoke marijuana in a public place. A person who
8 violates this subsection shall be assessed a civil penalty of not more than
9 \$100.00.

10 (b) The enforcement of this section by villages, towns, and cities shall be
11 by a local law enforcement officer or a law enforcement officer by contract
12 with the village, town, or city. Law enforcement officers under this subsection
13 shall have met minimum training requirements as provided in section 2358 of
14 this title.

15 § 2125. NO ACCOMMODATION REQUIRED; EMPLOYERS;

16 LANDLORDS

17 (a) Employers are not required to accommodate the use or possession of
18 marijuana or being under the influence of marijuana in a place of employment.

19 (b) A landlord may prohibit cultivation of marijuana on rental property.

20 (c) A landlord or innkeeper may prohibit smoking marijuana by posting a
21 notice and in the case of a landlord by including notice in the lease agreement.

1 Subchapter 3. Civil and Criminal Penalties

2 § 2131. MARIJUANA POSSESSION OR PROCUREMENT BY A PERSON

3 UNDER 21 YEARS OF AGE; FIRST OR SECOND OFFENSE;

4 CIVIL VIOLATION

5 (a) Offense. Except as otherwise provided in section 2132 of this section,
6 a person under 21 years of age who knowingly and unlawfully possesses
7 marijuana in an amount equal to or less than the possession limit for a person
8 21 years of age or older or who falsely represents his or her age for the purpose
9 of procuring or attempting to procure marijuana commits a civil violation and
10 shall be referred to the Court Diversion Program for the purpose of enrollment
11 in the Youth Substance Abuse Safety Program. A person who fails to
12 complete the program successfully shall be subject to:

13 (1) a civil penalty of \$300.00 and suspension of the person's operator's
14 license and privilege to operate a motor vehicle for a period of 90 days, for a
15 first offense; and

16 (2) a civil penalty of not more than \$600.00 and suspension of the
17 person's operator's license and privilege to operate a motor vehicle for a
18 period of 180 days, for a second offense.

19 (b) Issuance of notice of violation. A law enforcement officer shall issue a
20 person under 21 years of age who violates this section with a notice of
21 violation, in a form approved by the Court Administrator. The notice of

1 violation shall require the person to provide his or her name and address and
2 shall explain procedures under this section, including that:

3 (1) the person shall contact the Diversion Program in the county where
4 the offense occurred within 15 days;

5 (2) failure to contact the Diversion Program within 15 days will result in
6 the case being referred to the Judicial Bureau, where the person, if found liable
7 for the violation, will be subject to a civil penalty and a suspension of the
8 person's operator's license and may face substantially increased insurance
9 rates;

10 (3) no money should be submitted to pay any penalty until after
11 adjudication; and

12 (4) the person shall notify the Diversion Program if the person's address
13 changes.

14 (c) Summons and complaint. When a person is issued a notice of violation
15 under this section, the law enforcement officer shall complete a summons and
16 complaint for the offense and send it to the Diversion Program in the county
17 where the offense occurred. The summons and complaint shall not be filed
18 with the Judicial Bureau at that time.

19 (d) Registration in Youth Substance Abuse Safety Program. Within
20 15 days after receiving a notice of violation, the person shall contact the
21 Diversion Program in the county where the offense occurred and register for

1 the Youth Substance Abuse Safety Program. If the person fails to do so, the
2 Diversion Program shall file the summons and complaint with the Judicial
3 Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program
4 shall provide a copy of the summons and complaint to the law enforcement
5 officer who issued the notice of violation and shall provide two copies to the
6 person charged with the violation.

7 (e) Notice to report to diversion. Upon receipt from a law enforcement
8 officer of a summons and complaint completed under this section, the
9 Diversion Program shall send the person a notice to report to the Diversion
10 Program. The notice to report shall provide that:

11 (1) The person is required to complete all conditions related to the
12 offense imposed by the Diversion Program, including substance abuse
13 screening and, if deemed appropriate following the screening, substance abuse
14 education or substance abuse counseling, or both.

15 (2) If the person does not satisfactorily complete the substance abuse
16 screening, any required substance abuse education or substance abuse
17 counseling, or any other condition related to the offense imposed by the
18 Diversion Program, the case will be referred to the Judicial Bureau, where the
19 person, if found liable for the violation, shall be assessed a civil penalty, the
20 person's driver's license will be suspended, and the person's automobile
21 insurance rates may increase substantially.

1 (3) If the person satisfactorily completes the substance abuse screening,
2 any required substance abuse education or substance abuse counseling, and any
3 other condition related to the offense imposed by the Diversion Program, no
4 penalty shall be imposed and the person's operator's license shall not be
5 suspended.

6 (f)(1) Diversion Program requirements. Upon being contacted by a person
7 who has been issued a notice of violation, the Diversion Program shall register
8 the person in the Youth Substance Abuse Safety Program. Pursuant to the
9 Youth Substance Abuse Safety Program, the Diversion Program shall impose
10 conditions on the person. The conditions imposed shall include only
11 conditions related to the offense and in every case shall include a condition
12 requiring satisfactory completion of substance abuse screening using an
13 evidence-based tool and, if deemed appropriate following the screening,
14 substance abuse assessment and substance abuse education or substance abuse
15 counseling, or both. If the screener recommends substance abuse counseling,
16 the person shall choose a State-certified or State-licensed substance abuse
17 counselor or substance abuse treatment provider to provide the services.

18 (2) Substance abuse screening required under this subsection shall be
19 completed within 60 days after the Diversion Program receives a summons and
20 complaint. The person shall complete all conditions at his or her own expense.

1 (3) When a person has satisfactorily completed substance abuse
2 screening, any required substance abuse education or substance abuse
3 counseling, and any other condition related to the offense which the Diversion
4 Program has imposed, the Diversion Program shall:

5 (A) void the summons and complaint with no penalty due; and

6 (B) send copies of the voided summons and complaint to the Judicial
7 Bureau and to the law enforcement officer who completed them. Before
8 sending copies of the voided summons and complaint to the Judicial Bureau
9 under this subdivision, the Diversion Program shall redact all language
10 containing the person's name, address, Social Security number, and any other
11 information which identifies the person.

12 (4) If a person does not satisfactorily complete substance abuse
13 screening, any required substance abuse education or substance abuse
14 counseling, or any other condition related to the offense imposed by the
15 Diversion Program or if the person fails to pay the Diversion Program any
16 required Program fees, the Diversion Program shall file the summons and
17 complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29.
18 The Diversion Program shall provide a copy of the summons and complaint to
19 the law enforcement officer who issued the notice of violation and shall
20 provide two copies to the person charged with the violation.

1 (5) A person aggrieved by a decision of the Diversion Program or
2 alcohol counselor may seek review of that decision pursuant to Rule 75 of the
3 Vermont Rules of Civil Procedure.

4 (g) Failure to pay penalty. If a person fails to pay a penalty imposed under
5 this section by the time ordered, the Judicial Bureau shall notify the
6 Commissioner of Motor Vehicles, who shall suspend the person's operator's
7 license and privilege to operate a motor vehicle until payment is made.

8 (h) Record of adjudications. Upon adjudicating a person in violation of
9 this section, the Judicial Bureau shall notify the Commissioner of Motor
10 Vehicles, who shall maintain a record of all such adjudications which shall be
11 separate from the registry maintained by the Department for motor vehicle
12 driving records. The identity of a person in the registry shall be revealed only
13 to a law enforcement officer determining whether the person has previously
14 violated this section.

15 § 2132. MARIJUANA POSSESSION OR PROCUREMENT BY A PERSON

16 LESS THAN 21 YEARS OF AGE; THIRD OR SUBSEQUENT
17 OFFENSE; CRIME

18 No person less than 21 years of age shall knowingly and unlawfully possess
19 marijuana. A person less than 21 years of age who knowingly and unlawfully
20 possesses marijuana in an amount equal to or less than the possession limit for
21 a person 21 years of age or older or who falsely represents his or her age for

1 the purpose of procuring or attempting to procure marijuana commits a crime
2 if the person has been adjudicated at least twice previously in violation of
3 section 4230b of this title and shall be imprisoned not more than 30 days or
4 fined not more than \$600.00, or both.

5 § 2133. MARIJUANA POSSESSION OR PROCUREMENT BY A PERSON
6 LESS THAN 16 YEARS OF AGE; DELINQUENCY

7 No person less than 21 years of age shall knowingly and unlawfully possess
8 marijuana. A person less than 16 years of age who knowingly and unlawfully
9 possesses marijuana in an amount equal to or less than the possession limit for
10 a person 21 years of age or older or who falsely represents his or her age for
11 the purpose of procuring or attempting to procure marijuana commits a
12 delinquent act and shall be subject to 33 V.S.A. chapter 52. The person shall
13 be provided the opportunity to participate in the Court Diversion Program
14 unless the prosecutor states on the record why a referral to the Court Diversion
15 Program would not serve the ends of justice.

16 § 2134. POSSESSION, CULTIVATION, DISPENSING, AND SALE;
17 CRIMINAL PENALTIES

18 (a) Possession and cultivation.

19 (1) A person who knowingly and unlawfully possesses marijuana in an
20 amount that exceeds the possession limit shall be imprisoned not more than six
21 months or fined not more than \$500.00, or both. A person convicted of a

1 second or subsequent offense under this subdivision shall be imprisoned not
2 more than two years or fined not more than \$2,000.00, or both.

3 (2) A person who knowingly and unlawfully possesses one pound of
4 marijuana or six mature marijuana plants or 21 immature marijuana plants or
5 more shall be imprisoned not more than five years or fined not more than
6 \$100,000.00, or both.

7 (3) A person who knowingly and unlawfully possesses ten pounds of
8 marijuana or 12 mature marijuana plants or 42 immature marijuana plants or
9 more shall be imprisoned for not more than 15 years or fined not more than
10 \$500,000.00, or both.

11 (b) Dispensing and selling.

12 (1) Except as otherwise provided in section 2121 of this title, a person
13 who knowingly and unlawfully dispenses or sells marijuana or mature or
14 immature marijuana plants shall be imprisoned not more than two years or
15 fined not more than \$10,000.00, or both.

16 (2) A person who knowingly and unlawfully dispenses or sells six
17 ounces of marijuana or three mature marijuana plants or 10 immature
18 marijuana plants shall be imprisoned not more than five years or fined not
19 more than \$100,000.00, or both.

20 (3) A person who knowingly and unlawfully sells or dispenses one
21 pound or six mature marijuana plants or 21 immature marijuana plants or more

1 shall be imprisoned not more than 15 years or fined not more than
2 \$500,000.00, or both.

3 (c) Trafficking. A person who knowingly and unlawfully possesses
4 50 pounds or more of marijuana with the intent to sell or dispense the
5 marijuana shall be imprisoned not more than 30 years or fined not more than
6 \$1,000,000.00, or both. There shall be a permissive inference that a person
7 who possesses 50 pounds or more of marijuana intends to sell or dispense the
8 marijuana.

9 (d) Exemption. This section shall not apply to marijuana cultivators,
10 product manufacturers, testing laboratories, retailers, marijuana lounges, and
11 their owners, officers, staff members, and agents who are in compliance with
12 state law pursuant to this chapter.

13 § 2135. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS

14 On or before December 15, 2015, the Civil Division of the Washington
15 County Superior Court shall issue an order to expunge all records and files
16 related to the arrest, citation, investigation, charge, adjudication of guilt,
17 criminal proceedings, and any sentence related to a conviction for possession
18 of one ounce or less of marijuana, or possession of marijuana paraphernalia,
19 provided the person was 21 years of age or older at the time of conviction.
20 Copies of the order shall be sent to each agency, department, or official named
21 therein. Thereafter, the courts, law enforcement officers, agencies, and

1 departments shall reply to any request for information that no record exists
2 with respect to such person upon inquiry in the matter.

3 Subchapter 4. Marijuana Establishments

4 § 2141. GENERAL PROVISIONS

5 (a) Except as otherwise permitted by this chapter, a person shall not engage
6 in the cultivation, preparation, processing, packaging, transportation, testing,
7 sale, or dispensing of marijuana without obtaining a marijuana establishment
8 registration from the Board.

9 (b) To be eligible for a marijuana establishment registration an applicant
10 shall be a Vermont resident and:

11 (1) a dispensary registered under 18 V.S.A. § 4474e; or

12 (2) organized as a benefit corporation under 11A V.S.A. chapter 21.

13 (c) When considering applications for a marijuana establishment
14 registration, the Board shall give priority to an applicant that is a dispensary or
15 a benefit corporation organized by a dispensary pursuant to 11A V.S.A.
16 chapter 21.

17 (d) The Board shall consider an applicant's general public benefit,
18 including a commitment to paying employees a livable wage and being a good
19 environmental steward when determining whether to issue a marijuana
20 establishment registration.

1 (e) All registrations shall expire at midnight, April 30, of each year
2 beginning no earlier than 10 months after the original registration was issued to
3 the marijuana establishment.

4 (f) Applications for registrations and renewals shall be submitted on forms
5 provided by the Board and shall be accompanied by the fees provided for in
6 section 1404 of this section.

7 (g) This subchapter shall not apply to activities regulated by section 2121
8 of this title.

9 (h) As used in this subchapter, an “enclosed, locked facility” shall be either
10 indoors or otherwise not visible to the public and may include a building,
11 room, greenhouse, fully enclosed fenced-in area, or other location enclosed on
12 all sides and equipped with locks or other security devices that permit access
13 only by:

14 (1) Employees, agents, or owners of the marijuana establishment, all of
15 whom shall be 21 years of age or older.

16 (2) Government employees performing their official duties.

17 (3) Contractors performing labor that does not include marijuana
18 cultivation, packaging, or processing. Contractors shall be accompanied by an
19 employee, agent, or owner of the marijuana establishment when they are in
20 areas where marijuana is being grown, processed, or stored.

1 (4) Registered employees of other marijuana establishments, members
2 of the media, elected officials, and other individuals 21 years of age or older
3 visiting the facility, provided they are accompanied by an employee, agent, or
4 owner of the marijuana establishment.

5 § 2142. MARIJUANA ESTABLISHMENT PROHIBITIONS

6 A marijuana establishment registered under this subchapter shall not:

7 (1) dispense or sell marijuana or marijuana-infused products to a person
8 less than 21 years of age;

9 (2) employ a person less than 21 years of age;

10 (3) sell or deliver marijuana or marijuana-infused products packaged to
11 appeal to persons less than 21 years of age; or

12 (4) be located within 1,000 feet of the property line of a preexisting
13 public or private school or registered or regulated child care facility.

14 § 2143. EDUCATION

15 (a) An applicant for a marijuana establishment registration shall meet with
16 the Director of the Board or designee for the purpose of reviewing Vermont
17 laws and rules pertaining to the possession, purchase, storage, and sale of
18 marijuana prior to receiving a registration certificate.

19 (b) A registrant shall complete an enforcement seminar every three years
20 conducted by the Board. A registration shall not be renewed unless the records

1 of the Board show that the registrant has complied with the terms of this
2 subsection.

3 (c) A registrant shall ensure that each employee involved in the sale of
4 marijuana completes a training program approved by the Board prior to selling
5 marijuana and at least once every 24 months thereafter. The training shall be
6 no fewer than two hours and shall include information related to
7 marijuana-infused products. A registrant shall keep a written record of the
8 type and date of training for each employee, which shall be signed by each
9 employee. A registrant may comply with this requirement by conducting its
10 own training program on its premises, using information and materials
11 furnished by the Board. A registrant who fails to comply with the
12 requirements of this section shall be subject to a suspension of no less than one
13 day of the registration issued under this chapter.

14 § 2144. FEES

15 (a) A marijuana establishment application shall be accompanied by a
16 \$2,000.00 non-refundable application fee.

17 (b) A marijuana establishment shall be subject to the following annual fee:

18 (1) Cultivator registration, between \$1,000.00 and \$50,000.00,
19 determined by a formula set forth by the Board depending on the size of the
20 proposed cultivation location and whether the cultivation would occur indoors
21 or outdoors.

1 (2) Product manufacturer registration, \$5,000.00.

2 (3) Testing laboratory registration, \$5,000.00.

3 (4) Retail marijuana registration, \$30,000.00.

4 (5) Marijuana lounge, \$10,000.00.

5 § 2145. MARIJUANA REGULATION FUND.

6 (a) The Marijuana Regulation Fund is hereby created. The Fund shall be
7 maintained by the Board.

8 (b) The Fund shall be composed of all application fees, registration fees,
9 renewal fees, and civil fines, collected by the Director of the Board pursuant to
10 this chapter.

11 (c) All balances in the Fund at the end of any fiscal year shall be carried
12 forward and remain part of the Fund. Interest earned by the Fund shall be
13 deposited into the Fund.

14 (d) All monies within the Fund shall be allocated to the Board solely for the
15 purposes of implementing, administering, and enforcing this chapter, including
16 the costs incurred by the Board for its administrative expenses.

17 § 2146. MARIJUANA CULTIVATOR REGISTRATION

18 (a) A cultivator registered under this subchapter may:

19 (1) cultivate, prepare, package, transport, and sell marijuana to a
20 registered retailer, marijuana lounge, product manufacturer, or cultivator;

21 (2) transport and transfer marijuana to a testing laboratory;

- 1 (3) purchase marijuana from another cultivator to repackage and sell; or
2 (4) purchase marijuana seeds and up to seven immature marijuana plants
3 from an adult who is at least 21 years of age.

4 (b) Registered cultivators may only cultivate marijuana in an enclosed,
5 locked facility. A cultivator may have more than one such facility provided
6 that each facility is registered with the Board.

7 § 2147. MARIJUANA PRODUCT MANUFACTURER REGISTRATION

8 (a) A product manufacturer registered under this subchapter may:

9 (1) process, prepare, package, transport, and sell marijuana and
10 marijuana-infused products to a registered retailer, marijuana lounge, or
11 registered product manufacturer;

12 (2) transport and transfer marijuana to a testing laboratory; and

13 (3) purchase marijuana, including marijuana-infused products, from
14 another product manufacturer or a cultivator.

15 (b) Registered product manufacturers may only manufacturer marijuana
16 products in an enclosed, locked facility. A product manufacturer may have
17 more than one such facility provided that each facility is registered with the
18 Board.

1 § 2148. MARIJUANA TESTING LABORATORY

2 A testing laboratory registered under this subchapter may:

3 (1) acquire, possess, analyze, test for potency, and transport marijuana
4 obtained from marijuana establishments;

5 (2) acquire, possess, analyze, test for potency, and transport marijuana
6 received from persons at least 21 years of age; and

7 (3) receive compensation for analytical testing of marijuana.

8 § 2149. MARIJUANA RETAILER REGISTRATION

9 (a) A retailer registered under this subchapter may:

10 (1) transport, possess, and sell marijuana to the public for consumption
11 off the registered premises; and

12 (2) purchase marijuana from a registered cultivator or a registered
13 product manufacturer.

14 (b)(1) In a single transaction, a retailer may provide:

15 (A) one ounce of marijuana, and up to seven immature plants to a
16 person 21 years of age or older upon verification of a valid Vermont-issued
17 photograph identification card; or

18 (B) one-quarter of an ounce of marijuana, to a person 21 years of age
19 or older upon verification of a valid government-issued photograph
20 identification card.

1 (2) A retailer shall not knowingly and willfully sell an amount of
2 marijuana to a person that causes the person to exceed the possession limit.

3 (c) A retailer shall display a safety information flyer developed or approved
4 by the Board and supplied to the retailer free of charge. The flyer shall contain
5 information concerning the methods for administering marijuana, the potential
6 dangers of marijuana use, the symptoms of problematic usage, and how to
7 receive help for marijuana abuse.

8 (d) Marijuana and marijuana-infused products may be sold only in their
9 original packaging and shall comply with the packaging requirements of
10 section 2151 of this title.

11 § 2150. MARIJUANA LOUNGE

12 (a) A lounge registered under this subchapter may:

13 (1) Transport, possess, and sell marijuana to the public for consumption
14 on or off the registered premises.

15 (2) Purchase marijuana from a registered cultivator or a registered
16 product manufacturer.

17 (b)(1) In a single transaction, a lounge may provide one-quarter of an ounce
18 of marijuana to a person 21 years of age or older upon verification of a valid
19 government issued photograph identification card.

20 (2) A lounge shall not knowingly and willfully sell an amount of
21 marijuana to a person that causes the person to exceed the possession limit.

1 (c) A lounge shall display a safety information flyer developed or approved
2 by the Board and supplied to the lounge free of charge. The flyer shall contain
3 information concerning the methods for administering marijuana, the potential
4 dangers of marijuana use, the symptoms of problematic usage, and how to
5 receive help for marijuana abuse.

6 (d) Marijuana and marijuana-infused products may be sold only in their
7 original packaging and shall comply with the packaging requirements of
8 section 2151 of this title.

9 (e) A lounge may permit smoking of marijuana on the premises. If a
10 marijuana establishment possesses a retail registration and a lounge
11 registration, the lounge shall be separate from the retail space.

12 § 2151. MARIJUANA PACKAGING

13 (a) Each cultivator and product manufacturer shall create packaging for its
14 marijuana and marijuana-infused products. Packaging shall include:

15 (1) The name and registration number of the cultivator or product
16 manufacturer.

17 (2) The strain of marijuana contained. Marijuana strains shall be either
18 pure breeds or hybrid varieties of marijuana and shall reflect properties of the
19 plant.

1 (3) A list of the pesticides, fungicides, herbicides, fertilizers, and
2 solvents not recognized as organic used during cultivation, production, or
3 extraction.

4 (4) The potency of the marijuana represented by the percentage of
5 tetrahydrocannabinol and cannabidiol by mass as determined by a testing
6 laboratory.

7 (5) A list of ingredients and possible allergens.

8 (6) A nutritional fact panel for edible and potable marijuana-infused
9 products.

10 (7) A “produced on” date reflecting the date that the product
11 manufacturer or cultivator finished producing the marijuana-infused product or
12 marijuana.

13 (8) Warnings in substantially the following form, stating, “Consumption
14 of marijuana impairs your ability to drive a car and operate machinery,” “Keep
15 away from children,” and “Possession of marijuana is illegal under federal
16 law.”

17 (b) Packaging shall not be designed to appeal to persons less than 21 years
18 of age or to mimic products that do not contain marijuana.

1 § 2152. SUSPENSION OR REVOCATION OF REGISTRATION;

2 ADMINISTRATIVE PENALTY

3 The Board may suspend or revoke a registration granted under this chapter
4 or impose an administrative penalty of not more than \$2,500.00, or both, for a
5 violation of this chapter or any rule adopted by the Board pursuant to this
6 chapter.

7 § 2153. APPEALS

8 Within 30 days of the Board's determination, a person aggrieved by an
9 action taken by the Board under this chapter may appeal to the Civil Division
10 of the Superior Court in accordance with Rule 74 of the Vermont Rules of
11 Civil Procedure.

12 § 2154. REGULATION BY MUNICIPALITIES

13 (a) Nothing in this chapter shall be construed to prevent a municipality
14 from prohibiting marijuana establishments, or any class of marijuana
15 establishments, within its boundaries or from regulating the number, time,
16 place, manner, or operations of marijuana establishments that are located in the
17 municipality through zoning or other local ordinances.

18 (b) Nothing in this chapter shall be construed to prevent a municipality
19 from requiring a marijuana establishment that is located in the municipal
20 obtain a license, registration, or permit from the municipality prior to
21 beginning operations.

1 Subchapter 5. Taxes on Marijuana

2 § 2161. TAX IMPOSED

3 (a) Except as provided in this section, there is imposed an excise tax on
4 every cultivator of \$40.00 per ounce of marijuana flowers upon marijuana sold
5 in the State.

6 (b) Except as provided in this section, there is imposed an excise tax on
7 every cultivator of \$15.00 per ounce of any marijuana other than marijuana
8 flowers sold in the State.

9 (c) Except as provided in this section, there is imposed an excise tax on
10 every cultivator of \$25.00 on every immature marijuana plant sold in the State.

11 (d) Any cultivator liable for the tax imposed by this section shall, on or
12 before the 15th day of every month, return to the Department of Taxes, under
13 oath of a person with legal authority to bind the cultivator, a statement
14 containing its name and place of business, the quantity of marijuana subject to
15 the excise tax imposed by this chapter sold in the preceding month, and any
16 other information required by the Department of Taxes, along with the tax due.

17 (e) Every cultivator shall maintain, for not less than three years, accurate
18 records showing all transactions subject to tax liability under this subchapter.
19 The cultivator shall separately state the tax amount on the invoice to other
20 marijuana establishments. These records are subject to inspection by the
21 Department of Taxes at all reasonable times during normal business hours.

1 (f) The following sales shall be exempt from the tax imposed under this
2 section:

3 (1) sales under any circumstances in which the State is without power to
4 impose the tax; and

5 (2) sales to any dispensary, provided the marijuana will be provided
6 only to registered qualifying patients directly or through their registered
7 caregivers.

8 § 2162. PENALTIES

9 (a) A person subject to the provisions of this subchapter who fails to pay
10 the tax imposed by this subchapter by the date that payment is due or fails to
11 submit a return as required by this chapter is subject to the provisions of
12 32 V.S.A. § 3202.

13 (b) Any officer, employee, director, trustee, or other responsible person of
14 a corporation or other taxable entity, and any other person who counsels, aids,
15 abets, participates in, or conceals the defeat or evasion of tax, or the attempt
16 thereat, shall be subject to the penalties of subsection (a) of this section.

17 (c) The form for the payment of the tax under this subchapter shall set forth
18 in large type the penalties provided by this section.

1 § 2163. MARIJUANA TAX FUND

2 (a) The Marijuana Tax Fund is hereby created. The Fund shall be
3 administered by the Commissioner of Tax and comprise all taxes collected by
4 the Commissioner of Taxes from marijuana cultivators.

5 (b) By the 30th day after the end of each fiscal quarter, the monies
6 deposited in the Fund during the prior fiscal quarter shall be allocated by the
7 Commissioner of Finance and Management as follows:

8 (1) 10 percent to the Agency of Human Services for:

9 (A) the development and dissemination of scientifically and
10 medically accurate public education for youth and adults about the health and
11 safety risks of alcohol, tobacco, and marijuana, and educating adults about the
12 responsible use of marijuana and alcohol; and

13 (B) use in evidence-based criminal justice programs and substance
14 abuse treatment services designed to reduce potential harms stemming from
15 substance abuse, including the statewide development of DUI and other Drug
16 Treatment Courts.

17 (2) 10 percent to the Department of Public Safety for enforcement of
18 this chapter.

19 (3) 5 percent to municipalities with registered retailers in proportion to
20 the amount of marijuana sold by retailers in each municipality during the
21 previous fiscal quarter.

1 (4) 5 percent to municipalities with registered cultivators in proportion
2 to the amount of marijuana cultivated by cultivators in that municipality during
3 the previous fiscal quarter.

4 (5) 5 percent to the University of Vermont for academic and medical
5 research on marijuana.

6 (6) 2.5 percent to the Youth Substance Abuse Safety Program Special
7 Fund.

8 (7) 2.5 percent to the Department of State’s Attorneys and Sheriffs for
9 the establishment and implementation of alternative justice programs for which
10 there are written protocol and memoranda of understanding filed with and
11 approved by the Executive Director of the Department.

12 (8) 60 percent to the General Fund.

13 Sec. 3. 4 V.S.A. § 1102 is amended to read:

14 § 1102. JUDICIAL BUREAU; JURISDICTION

15 (a) A Judicial Bureau is created within the Judicial Branch under the
16 supervision of the Supreme Court.

17 (b) The Judicial Bureau shall have jurisdiction of the following matters:

18 * * *

19 ~~(24) Violations of 18 V.S.A. §§ 4230a and 4230b, relating to possession~~
20 ~~of marijuana~~ 20 V.S.A. chapter 119, relating to marijuana.

1 Sec. 4. REPEAL

2 18 V.S.A. §§ 4230, 4230a–4230d are repealed (marijuana).

3 Sec. 5. EFFECTIVE DATE

4 This act shall take effect on July 1, 2015.