

MAINE STATE LEGISLATURE

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STATE OF MAINE

MARIJUANA ADVISORY COMMISSION

MEMORANDUM

TO: Senator Geoffrey Gratwick, Chair
Representative Patricia Hymanson, Chair
Joint Standing Committee on Health and Human Services

Senator Louis Luchini, Chair
Representative John Schneck, Chair
Joint Standing Committee on Veterans and Legal Affairs

FROM: Senator Justin Chenette, Chair ^{JC}
Representative Teresa Pierce, Chair ^{TP}
Marijuana Advisory Commission

DATE: November 30, 2020

SUBJ: Marijuana Advisory Commission annual report pursuant to Title 28-B, section 903, subsection 5

On behalf of the Marijuana Advisory Commission, we are submitting this letter as our annual report pursuant to Title 28-B, section 903, subsection 5.

As you may know, the COVID-19 pandemic delayed the launch of the adult use marijuana marketplace, which we had expected to occur this past spring or summer. Instead, the first adult use marijuana store licenses were issued and the corresponding retail sale of adult use marijuana began on October 9, 2020. In the ramp up to that launch date and in the subsequent days and weeks after, industry participants and regulatory staff – which includes many of the members of our Commission – were and continue to be focused on the demands of this new industry. Additionally, many participants in the State's medical marijuana program were and continue to be working to respond to a myriad of recent statutory and regulatory changes to that program and, for many, to transition into the adult use market.

Given these circumstances and the additional limitations the COVID-19 pandemic placed on the meetings of public bodies, we decided to delay the reconvening of the Commission until the next legislative interim in 2021. At our direction, commission staff solicited public comments regarding law enforcement contacts with citizens pursuant to the Maine Revised Statutes, Title 28-B, section 903,

subsection 2. The commission received one comment, jointly submitted by the Maine Municipal Association and Maine Chiefs of Police Association, which is appended to this letter.

It is our hope that the Commission will be able to engage in substantive discussions during the 2021 legislative interim following the full implementation of changes to the medical marijuana program and the full establishment of the adult use marijuana marketplace in the State. To help direct our work next year, we would encourage both of your committees to submit to the Commission any recommendations for matters relating to the medical marijuana or adult use marijuana programs that you believe merit further discussion by our members.

Should you have any questions, please feel free to contact us directly or through our Office of Policy and Legal Analysis staff, Erin Dooling and Dan Tartakoff.

Enc.

Cc: Members, Marijuana Advisory Commission
Members, Joint Standing Committee on Health and Human Services
Members, Joint Standing Committee on Veterans and Legal Affairs
Danielle Fox, Director, Office of Policy and Legal Analysis



Maine Municipal Association

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To: Marijuana Advisory Commission
Fr: Rebecca Graham, Legislative Advocate, MMA State and Federal Relations
Re: Police Observations and Impacts – Adult Use Marijuana
Date: November 10, 2020

In response to the Marijuana Advisory Commission call for public comment regarding contacts between law enforcement officers and citizens, MMA worked with the Maine Chiefs of Police Association to gather information on how the legalization of adult use marijuana has impacted law enforcement activities. The comments from officers and leadership focused on three main themes; enforcement challenges, public education needs, and an eminent need for increased regulation of edible and concentrated marijuana products.

Enforcement Challenges

“I don't have exact numbers for my department. However, I can say that the vast majority of OUI-Drugs arrest since the legalization have been under the influence of cannabis in so form, whether it be poly drug or solely cannabis”

Police who responded to the request for information have experienced an increase in arrests associated with operating a motor vehicle under the influence of cannabis related intoxicants. Unlike alcohol where the intoxicant level of an operator can be verified through breath or blood analysis immediately, the properties of marijuana requires police specialists, trained as Drug Recognition Experts (DRE) under the Drug Evaluation and Classification program from the Bureau of Highway Safety, to evaluate a driver suspected of illegal operation.

Less than half of the departments who responded had a trained DRE on staff and needed to use another agency's employee during suspected OUI traffic stops. These trained professionals are not always available, and in many locations around the state are limited in number. Certification is rigorous, time consuming and requires mentorship from an active DRE, 62 hours of in class training and field certification over 60-90 days. The course, however, is currently offered once a year.

“It is a lengthy training requirement that is only offered yearly. It would be beneficial to have more training opportunities. The Maine Bureau of Highway Safety has been a great resource in assisting with this issue”

Municipal police have varying staffing levels, which are often dependent on the successful recruitment of candidates and local capacity to fund operations. Regardless of size or capacity, these public safety professionals are important to the communities they serve. However, many smaller and rural

departments are presented with barriers for training an officer to be a DRE, which include limited availability of local DRE mentors, and logistical capacity and staff necessary to support the position during and following certification. Even in larger departments, officers reported a significant increase in OUI drug cases. As a result, these departments have been required to add more trained DREs to their staff to manage the caseload increase.

“We originally had only one DRE on staff. Then we increased to 2 due to a vast case load, and again increased to 3 active DREs on staff to ease the work load of DRE evals and OUI drug cases.”

Departments with School Resource Officers (SRO’s) reported increases in use and possession among students prior to the shift to online learning during the Covid-19 pandemic. However, the move to remote learning has resulted in a decline of these incidents.

“Reported use from students is that there has been an increase. Due to COVID and distance-learning, cases of SRO seizure of marijuana and products has not increased.”

Additionally, police highlighted the need for increased guidance and training particularly focused on small departments with limited capacity that will be encountering increased marijuana related enforcement issues. Even in communities without retail facilities, adjacent community development can increase the number of marijuana related incidents encountered by neighboring municipal and county law enforcement officers.

“We will need plenty of [additional] guidance and training. We are very small and limited.”

“We need additional support for both law enforcement training and public education.”

Due to the statewide impacts of the marijuana market and the varying levels of local capacity to financially support the increased enforcement burden. Municipal officials and law enforcement are asking the commission to consider recommending greater support for needed training programs and resources for communities that must fund these activities in an effort to protect all of Maine’s visitors and residents.

Public Education Campaigns and Messaging Needs

“I would like to see PSAs specifically to the dangers surrounding edibles and concentrated THC. Public education campaigns are a great idea.”

Historically, public awareness campaigns around alcohol use have successfully increased awareness of underage access, how to have conversations around use, and the dangers of motor vehicle operation. Survey respondents emphasized the need for similar statewide messaging campaign for the use of marijuana, particularly for edible products and their delayed psychotropic effect. Police advise the delay experienced from edible consumption often increases the risk of impaired driving and overconsumption. Because the desired effect is not immediately felt, individuals feel fine enough to operate a vehicle only to become very impaired further down the road.

Police who responded to our request also highlighted the increasing need for statewide public education campaigns around cannabis concentrates. Concentrates often exacerbate existing mental health concerns, such as anxiety, and their delayed effect following initial consumption often lead to additional consumption. This increases the chances of accidental overdose or symptoms that result in calls for police and emergency medical response. While the retail market may be regulated to limit the amount of THC in edible products, there is no limit to the level in the medical or homemade edibles.

Accidental ingestion by children was also highlighted as an area that would benefit from a statewide awareness campaign. Homemade and purchased marijuana products resemble other non-adulterated snacks like cookies and pastries, which children often consume in multiple amounts, pose a significant danger of overdose when such adulterated products are accidentally consumed.

The increased access and availability of marijuana products, like other intoxicants, pose known public health impacts. As a result, municipal and law enforcement officers ask the Commission to implement a statewide public awareness campaign focused on driving impairment, hazards and youth access to support public education and improve voluntary public compliance with impairment laws in support of enforcement and public health goals.

Need for Regulation

Consumers and law enforcement alike would benefit from clear and standardized safety labeling on all edible products. Once an adulterated item is removed from its original packaging, it is impossible to distinguish from similar products. Accidental consumption of marijuana edibles that look like non-adulterated items has risen significantly and police expect this trend to continue with recreational retail store growth.

“Safety labeling, education, equipment/processes to easily identify levels for enforcement and consumer.”

Police respondents shared a need for labeling standards that emphasize the portion of the product considered to be a single serving, particularly when they mirror similar non-adulterated products like candy bars. While a single portion may have a regulated amount of THC, that portion may only be a bite of a candy bar that resembles a product normally consumed in one sitting. This increases the likelihood of someone unintentionally consuming 12 servings instead of one.

Additionally, edibles tend to resemble candy in labeling and product style which also elevates the potential for accidental ingestions by children discovering the products and assuming they are normal candy. Many states have outlawed this type of packaging and design to make these products unappealing to children. Municipal officials and law enforcement would like to see Maine pursue similar approaches to regulating the edibles market.

“Certainly, edibles are our biggest concern - once they are removed from their original packaging there will be NO way to distinguish those products from others. We anticipate seeing an increase in issues around their use”

“...edibles have a tendency to mimic real candy in labeling and style of food (candy bars, gummy bears, etc.) Which can lead to accidental ingestions by children, as they may think its harmless candy and not drugs. Other states have outlawed this, so that it doesn't appeal to children. I would like to see this in Maine.”

Maine Municipal Association and the Maine Chiefs of Police Association hope the Commission will remain open to engaging with municipal, county, and state police agencies to continue to learn how the legalization of adult use marijuana will impact local level costs and resources. Please feel free to reach out to us if we can provide and further information to inform your report to the 130th Legislature.

Three of the survey respondents would be happy to share more detailed information regarding their department's experience and concerns with the Commission if desired. Their contact information is attached.

Chief Dana Kelley, Old Orchard Beach Police Department, dkelley@oobmaine.com

DRE, Officer Chris Hutchings, Augusta Police Department, chris.hutchings@augustamaine.gov

Public Safety Director, Fred Porter, Islesboro Department Public Safety, islepublicsafety@aim.com