

From: London, Sarah [Sarah.London@vermont.gov]
Sent: Saturday, October 24, 2015 10:55 PM
To: Pepper, James
Subject: Fwd: S.95 Bill Review
Attachments: Bill Review S.95-INTRO.doc; ATT00001.htm

FYI if I didn't already send to you.

Sent from my iPad

Begin forwarded message:

From: "Morgan, Candace" <Candace.Morgan@vermont.gov>
Date: October 21, 2015 at 9:48:58 PM EDT
To: "London, Sarah" <Sarah.London@vermont.gov>
Cc: "Peterson, Mary" <Mary.Peterson@vermont.gov>
Subject: S.95 Bill Review

Sarah,

Please see the attached bill review of S.95. Should we find a time next week to talk in more detail about the taxation side of things?

Candace

Candace Morgan | Director
Policy, Outreach, and Legislative Affairs | Vermont Department of Taxes
133 State Street | Montpelier, VT 05633-1401
o: 802.828.0141 | c: 802-488-4111 | tax.vermont.gov

New email address: candace.morgan@vermont.gov

CONFIDENTIAL
TAX LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: S.95

Name of Bill: An act relating to regulation and taxation of marijuana

Agency/ Dept: Tax

Author of Bill Review: Candace Morgan

Date of Bill Review: 10/20/2015 Related Bills and Key Players:

Status of Bill: (check one): ☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both

Recommended Position:

☐ Support ☐ Oppose ☐ Remain Neutral ☒ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

This bill proposes to establish the regulatory and taxation system for legalizing recreational marijuana. It permits a person who is 21 years of age or older to possess limited amounts of marijuana for personal use. The bill addresses regulatory issues, which will not be the focus of this bill review.

After hearing from the states that have legalized marijuana, it is encouraging to see a process that allows for a gradual implementation. This will allow Tax to develop policies and procedures around collecting the tax. It will also allow for more outreach to the new types of businesses and make sure they know how to file and pay correctly, hopefully easing compliance efforts in the long run.

2. Is there a need for this bill? *Please explain why or why not.*

If it is decided that Vermont should legalize marijuana, this bill is a good starting point for that discussion.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

There are a lot of programmatic implications for the Tax Department. States that have legalized marijuana have cited compliance as a top priority and been given extra auditors with the goal being to audit every marijuana related business within the first year of operation (Colorado has 8 auditors doing marijuana audits and 1 FTE doing data analysis for audit selection).

In terms of fiscal implications, there are lots of policy decisions that should be considered before a revenue estimate is produced. Decisions around the type of tax, rate of tax, sales vs. meals and rooms tax will all impact the revenue estimate. That being said, the Rand Report offers a helpful starting point for us to revise their estimate based on different decisions.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

This policy change touches a wide range of departments in state government. Those conversations appear to be happening within interested parties.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? *(for example, public, municipalities, organizations, business, regulated entities, etc)*

The Vermont League of Cities and Towns voted at their annual meeting to oppose the legalization of recreational marijuana.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

6.2 Who else is likely to oppose the proposal and why?

7. Rationale for recommendation: *Justify recommendation stated above.*

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

Recommended Changes – Policy:

- Instead of the tax structure as laid out in this proposal, we would recommend an excise tax at the wholesale level. The tax structure in S.95 subjects different parts of the plant to different rates of tax. This is very challenging to administer. Additionally, both Oregon and Washington changed their different rates per part of plant method to one straight excise tax. The reasons for the change ranged from ease of compliance to allowing the legal industry get a foothold in their state (since this method would increase the price more than a straight excise tax).
- We would recommend explicitly adding “any items for human consumption that contain marijuana” to the definition of taxable meals. This allows all edibles to be subject to the meals and rooms tax. Some items would already have met the definition (2 or less bakery items), but other items would not because they would fall into the definition of food. Due to Streamlined Sales Tax rules, we could not apply the sales tax to the marijuana items and not the non-marijuana items. This change would get around that issue.

Recommended Changes – Ease of Administration

- In Subchapter 5 § 2161(d), we would recommend having the due date for the taxes changed to the 25th of the month. This would allow it to conform with the sales and use tax filing date for businesses.
- For compliance purposes, we would recommend that all businesses licensed with the Marijuana Control Board established in S.95 to be registered with the Department of Taxes.
- One major issue raised by other states has been the fact that these businesses are primarily cash operations. We need to think about how we will collect payments from businesses if they must only pay in cash. Currently, our taxpayer service window does not accept cash payments. In order to accept payments, we would need to invest in security measures at the window which would include some onetime investments (safety glasses, cash counting machines, video surveillance, armored transport, etc.). Oregon estimated they would see about 30% of their revenue in cash each month.
- Electronic filing of all returns should be mandatory. Colorado also asked for all licensees to file even before they open for business – this allows them to file zero returns to practice.

9. Gubernatorial appointments to board or commission?

N/A

Secretary/Commissioner has reviewed this document: Mary Peterson Date: 10/20/2015

