1. Working group name:

*Law Enforcement Working Group*

1. Individual sponsor(s):

*Adam W. Page, Captain, Department of Public Safety, Nevada Highway Patrol*

*Mike Allen, Sheriff, Humboldt County*

*Keith Carter, Director, High Intensity Drug Trafficking Area (HIDTA)*

1. Describe the recommendation:

*The working group submits that the need for marijuana diversion to outside states is a critical component for three primary reasons:*

*1. It is an enforcement priority for the federal government as described in the US Attorney’s memorandum on Guidance Regarding Marijuana Enforcement (James M. Cole, August 29, 2013);*

*2. It will take preventive measures to ensure that Nevada’s legalization of recreational marijuana does not negatively impact the criminal justice system in states where it remains illegal; and*

*3. To deter, detect, and apprehend drug trafficking organizations that are operating on Nevada’s roadways. The following are recommendations that will support marijuana diversion to outside states:*

* 1. *Develop public service announcements (PSA) and other signage, in and/or near dispensaries, informing marijuana consumers that travelling into other states with marijuana and other related products is unlawful.*
  2. *Partner with members of the travel and parcel industry in an effort to educate their patrons and foster cooperation when criminal activity is detected.*
  3. *Encourage and strengthen criminal interdiction efforts on interstate traffic routes.*
  4. *Promote the understanding that marijuana possession over a certain quantity is still a felony crime with various legal consequences. Therefore, marijuana odor coupled with other criminal indicators should remain a component in establishing probable cause to investigate criminal activity.*
  5. *If evidence is established that a licensed dispensary is knowingly or negligently involved in selling large amounts of marijuana to those that travel out of state, enforce both criminal and civil penalties against the dispensary.*
     1. *Our working group would like to support any recommendation by the Operations and Retail Establishment Working Group that would aid in tracking inventory and sales with the intent to deter inappropriate distribution.*
  6. *Monitor the impact of marijuana being transported out of state. If data suggests that Nevada’s legalization of recreational marijuana is increasing marijuana related charges in neighboring states, then consider lowering trafficking level thresholds or increasing criminal penalties.*

1. Which guiding principle(s) does this recommendation support?

*Guiding Principle 2 - Be responsive to the needs and issues of consumers, non-consumers, local governments and the industry.*

*Guiding Principle 6 - Establish regulations that are clear and practical, so that interactions between law enforcement (at the local, state, and federal levels), consumers, and licensees are predictable and understandable.*

1. What provision(s) of Question 2 does this recommendation apply to?

*Section (2) Preamble: The People of the State of Nevada proclaim that marijuana should be regulated in a manner similar to alcohol so that:*

*c. Cultivating, manufacturing, testing, transporting, and selling marijuana will be strictly controlled through state licensing and regulation.*

*Section (5) Powers and Duties of the Department: 1. Not later than 12 months after the effective date of this act, the Department shall adopt all regulations necessary or convenient to carry out the provision of sections 1 to 18, inclusive, of this act. The regulations must not prohibit the operation of marijuana establishments, either expressly or through regulations that make their operation impracticable. The regulations shall include:*

*m. Civil penalties for the failure to comply with any regulation adopted pursuant to this section or for any violation of the provisions of section 13 of this act.*

*Section (5) Powers and Duties of the Department: 4. The Department may immediately suspend the license of any marijuana establishment if the marijuana establishment knowingly sells, delivers, or otherwise transfers marijuana in violation of sections 1 to 18 , inclusive, of this act or knowingly purchases marijuana from any person not licensed pursuant to sections 1 to 18, inclusive, of this act or to Chapter 453A of NRS. The Department must provide an opportunity for a hearing pursuant to the provision of NRS 233B.121 within a reasonable time from a suspension pursuant to this subsection.*

1. What issue(s) does the recommendation resolve?
2. *PSA and signage – Informing patrons of marijuana establishments and marijuana consumers that transporting marijuana out of state is unlawful will educate the public with the intent to deter this criminal activity.*
3. *Partnering with the travel and parcel industry - Educating these businesses will promote the opportunity to communicate effectively to their patrons which will, in turn, potentially reduce unlawful activity. Additionally, this will create a partnership whereas if criminal activity is detected the establishment will have a mechanism in place to report such crimes.*
4. *Encourage and strengthen interdiction efforts – The data collected during interdiction stops will be able to measure our efforts in promoting marijuana diversion to other states. It will also apprehend violators with a potential impact of disrupting the activities of drug trafficking organizations.*
5. *Marijuana odor and establishing probable cause – Colorado Supreme Court Case, People v. Zuniga (2016), establishes that the odor of marijuana is relevant to the totality of the circumstances test and can contribute to a probable cause determination. Nevada still has significant criminal penalties for unlawfully possessing large amounts of marijuana and therefore the odor of marijuana is still an element in establishing probable cause. This recommendation promotes the understanding that marijuana remains illegal and in many cases a felony outside the parameters established by Question 2.*
6. *Criminal and civil penalties for dispensaries – When evidence proves illegal activities by the dispensaries, the state should take action to ensure the violation of regulations identified in Question 2 will not be tolerated.*
7. *Monitoring impact on other states – Three states that share a border with Nevada have not legalized recreational marijuana: Idaho, Utah, and Arizona. If Nevada is not able to be successful in preventing marijuana diversion to other states, then legislation should be consider to either lower trafficking amount thresholds or increasing criminal penalties in an effort to disrupt future criminal activity.*
8. Was there dissent in the group regarding this recommendation? If yes, please provide a summary of the dissenting opinion regarding the recommendation.

*None*

1. What action(s) will be necessary to adopt the recommendation? Will statute, policy, regulations, etc. need to be addressed?
2. *PSA and signage – There will be no changes to statute, policy, or regulations.*
3. *Partnering with the travel and parcel industry – It would be prudent for law enforcement agencies to network and develop relationships with such businesses in their area. However, there should be no changes to statute, policy, or regulations.*
4. *Interdiction efforts – Training and strict policy guidelines should be established to ensure interdiction efforts are being conducted properly. No statute or regulation change would be required.*
5. *Marijuana odor – There are no changes to statute, policy, or regulations at this time for this recommendation. Since the legalization of marijuana in the United States is relatively new, case law is lacking. The most relevant case, People v. Zuniga (Colorado Supreme Court, 2016) supports this recommendation.*
6. *Criminal and civil penalties for dispensaries – This recommendation does require the establishment of proper regulation and oversight. We submit that these regulations are being established by the Operations and Retail Establishment Working Group.*
7. *Monitoring data – If it is determined that Nevada’s efforts for marijuana diversion to outside states is failing, stricter laws and penalties will require a statutory change.*
8. Additional information (cost of implementation, priority according to the recommendations, etc.).

*The recommendations being submitted have no order of priority. The cost of implementation should be within normal operational budgets by law enforcement agencies.*