

HB 656 Ways and Means Work Session — Remarks and Responses

Produced by the Marijuana Policy Project

“If we recommend interim study, I think we’re sending a message that the actions of the House on policy that was passed by passing the amendment are incorrect.”
—Rep. Jordan Ulery, Ways and Means Committee work session, March 12

On Monday, March 12, after holding HB 656¹ for more than two months, the House Ways and Means Committee held a work session followed by an executive session on the bill. The committee’s vice-chairman, Rep. Patrick Abrami, pressed his colleagues to support an “interim study” motion, and this was ultimately approved at the executive session despite the fact that HB 656 had already passed the House in a 207-139 vote.

At the work session, Rep. Abrami began by criticizing the amendment that was adopted by the House on January 9. This amendment removed the provisions of HB 656 that would have provided for taxing and regulating the retail sales of marijuana for adults’ use, so the measure would simply allow adults to cultivate and possess a limited amount of cannabis for personal use. Here are his comments and the remarks made by other committee members, along with some responses:

Rep. Abrami: “There was no debate on the amendment. I only learned about the amendment that morning.”

Response: The amendment was printed in the House Calendar, which was published the previous week (January 5), and it was mentioned in the minority committee report. All representatives are expected to read the House Calendar in preparation for general session.

Rep. Abrami: “I asked the chair of Criminal Justice, and he wasn’t even aware of the amendment.”

Response: He should have been. It was voted on by his committee (defeated 13-7), printed in the House Calendar, and mentioned in the minority committee report.

Rep. Abrami: “The amendment came to the floor. There was no speaker signed up, so the Speaker just moved the question. We voted on it. There was no debate. So to say that this amendment was fully vetted is not right. It wasn’t fully vetted by Criminal Justice.”

Response: The amendment was, in fact, considered by the Criminal Justice and Public Safety Committee and received seven votes in favor. Unfortunately, that

¹ <https://www.mpp.org/states/new-hampshire/new-hampshires-marijuana-legalization-bill-hb-656/>

committee is densely populated with representatives who oppose any form of legalization, and those representatives have no interest in properly vetting any marijuana bill or amendment. The fact that this committee failed to perform its job properly should not be held against HB 656. This is a simple, straightforward bill, and representatives should be capable of reading it and deciding their vote based on its merits.

Also, Rep. Sapareto did attempt to explain the amendment after it was adopted and before the “ought to pass” motion was voted on, but the Speaker stopped him and informed him that the explanation was unnecessary since the amendment had already been adopted. The bill subsequently passed 207-139.

Rep. Abrami: “Then we had our hearing. Now let’s reflect on that hearing. What happened in that hearing? The prime sponsor didn’t show up, so we recognized one of the other sponsors of the bill... he introduced the bill and he started to explain the bill but he was explaining the original bill... he had no knowledge of what was in the amendment.”

Response: It sounds like at least a few representatives need to start doing a better job of reading the House Calendar, but again, it would be unfair to hold this against a simple, straightforward bill that is supported by Granite Staters by a more than two-to-one margin.² As the chairman of Ways and Means has said repeatedly, this policy issue was affirmatively decided by the House before the bill was sent to this committee.

Rep. Abrami: “There’s no money to regulate any of this.”

Response: The bill does not include any provisions that require regulation. It merely eliminates penalties for limited personal possession and cultivation.

Rep. Abrami: “Who’s gonna monitor the six plants?”

Response: The person who is growing them will monitor them. There is no state monitoring of home cultivation in the states where it is legal for adults, just as there is no state monitoring of home brewing, which is legal for adults in all 50 states.

Rep. Abrami: “Who’s gonna monitor 300 milligrams infused product? And by the way it says 300 milligrams infused against what? I could infuse 300 into like a little thing and have it like pure. We can’t pass it this way, it’s not right! There’s no 300 milligrams per what in the bill.”

² “Bipartisan support for marijuana legislation,” Granite State Poll, University of New Hampshire Survey Center, February 27, 2018.
https://cola.unh.edu/sites/cola.unh.edu/files/research_publications/gsp2018_winter_substance22718.pdf

Response: The 300 milligram threshold for personal possession of infused products was included in the decriminalization law that passed in 2017. The only difference under HB 656 is that adults would be able to produce their own infused products instead of purchasing them from retail stores in other states. Retail stores are expected to open in July in Massachusetts, and highly concentrated infused products will be available in stores, so there is little to be gained by prohibiting the personal production of infused products (i.e. brownies) in New Hampshire.

Rep. Abrami: “We heard from some local police chiefs who testified that they were not comfortable with the way this was.”

Response: The local police chief who testified against HB 656 is a retired DEA agent, John Bryfonski of Bedford. He has testified against numerous marijuana policy reform bills in the past, including the modest decriminalization bill (HB 640) that passed the House 318-36 in 2017.

Rep. Abrami: “Monitoring that the plants are in a secure location, who’s gonna do that?”

Response: It will be the cultivator’s responsibility to comply with the provisions of the law or face possible legal consequences.

Rep. Abrami: “Monitoring that locations are not selling excess product.”

Response: Selling any amount of marijuana would remain a felony offense under HB 656.

Rep. Abrami: “Being on the commission, being chair of the commission, so far we’ve heard from five states... and one of the biggest problems they’ve had is with the home grown stuff, because six plants is a lot of plants. People grow more than they need, and what happens is it winds up getting sold... It creates a black market.”

Response: This is an outrageous mischaracterization of the testimony that has been presented to the study commission. While some experts did testify that excess home cultivation was problematic, they were not talking about limited home grow policies such as the one proposed in HB 656 — they were talking about large-scale cultivation.

For example, until last summer, Colorado’s medical marijuana law allowed patients to grow up to 99 plants with the certification of a doctor. It is disingenuous to conflate limited policy proposals such as HB 656 with policies allowing unregulated large-scale cultivation. Additionally, this policy obviously wouldn’t *create* a black market — the illicit market has obviously existed for as long as anybody can remember. Instead, HB 656 would provide New Hampshire residents with a legal alternative to buying marijuana from dealers of illicit substances.

Notably, the study commission has not heard any testimony at all from Massachusetts or Maine, where marijuana cultivation has been legal for adults for more than a year, or from Vermont, where the legislature passed a law legalizing home cultivation earlier this year.

Rep. Abrami: “The most extreme case is Washington state. Washington state said ‘we had medical marijuana going way back, and we allowed home grown.’ Then she character—, state senator, oh no she was the marijuana— headed up marijuana, and she said that it was ‘the wild west.’ That was her characterization of home grown. When they passed their recreational bill, commercialization bill, they did away with home grown. So here we are passing home grown.”

Response: Again, it is outrageous to conflate Washington State’s early medical marijuana law with this much more limited proposal. This is also factually incorrect — Washington’s medical marijuana law still allows patients to grow up to 15 plants if authorized to do so by their healthcare practitioner.

The policy of allowing patients to grow their own plants isn’t what led to significant problems in Washington — it was the fact that hundreds of unregulated dispensaries came into existence as a result of a loophole in the law. Colorado experienced a similar problem during this period, but the legislature took action in 2010 and passed a law to license and regulate dispensaries. A similar legislative effort in Washington was partially vetoed in 2011, leaving that state’s market unregulated.

It should also be noted that Washington’s adult use legalization “bill” was actually a ballot initiative. It was drafted by reform advocates, not legislators, and sponsors of the initiative have publicly stressed that the exclusion of home cultivation for adult use was a pragmatic strategy decision rather than a policy decision — they were afraid that they might lose a few votes on the home grow issue, and they simply did not want to risk losing.³

Rep. Abrami: “It’s not a panacea.”

Response: Nobody said it was.

Rep. Ulery: “If we recommend interim study, I think we’re sending a message that the actions of the House on policy that was passed by passing the amendment are incorrect. And since we have no revenue issues to discuss, would it not be better to present this out with no recommendation and let the House decide what to do with it?”

³ “Alison Holcomb on I-502 and Home Grow.”
<https://blog.seattlepi.com/vivianmcpeak/2017/09/21/alison-holcomb-on-i-502-and-home-grow/>

Rep. Lang: “I asked this question of the clerk already... and the answer was no. The only way that comes out is if the committee votes and has a tie.”

Rep. Martin: “It quickly became obvious to us as a committee, in my opinion, that it was an incomplete bill, that there are no revenues, but that there are costs. I feel like that’s unknown.”

Response: This is not an incomplete bill — Ways and Means had an incomplete hearing. The chairman informed advocates in advance of the hearing that testimony would be limited to revenue considerations. As a result, since there were “no revenue issues to discuss,” most advocates stayed home. Even Rep. Abrami conceded during the work session that, “Obviously there’s no revenue here.” The committee plainly should never have been asked to consider the bill in the first place.

Unfortunately, the chairman’s directive to limit testimony was heeded only by the supporters of HB 656, not the opponents.⁴ The result was a long and completely one-sided hearing where opponents made the same tired arguments they have been making for many years against marijuana legalization. Two respected attorneys were planning to attend the committee’s work session on March 8 to discuss the cost *savings* that would be associated with this reform, but the session got cancelled because of snow.

The work session was rescheduled for 1 p.m. on Monday, March 12, but advocates were not informed of the new time. The only reason the public knows what was said at the meeting is because the Marijuana Policy Project’s Matt Simon happened to be in the building for another meeting and happened to refresh the bill docket online.

If you are a legislator or member of the study commission and you would like to hear the audio of the work session, contact Matt Simon at msimon@mpp.org.

⁴ “House Prohibitionists Will Try to Block Marijuana Bill.” <https://patch.com/new-hampshire/concord-nh/house-prohibitionists-will-try-block-marijuana-bill>