

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 58
3 entitled “An act relating to increasing the penalties for subsequent offenses for
4 trafficking and dispensing or sale of a regulated drug with death resulting”
5 respectfully reports that it has considered the same and recommends that the
6 bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

8 * * * Drug Crimes * * *

9 Sec. 1. 18 V.S.A. § 4201 is amended to read:

10 § 4201. DEFINITIONS

11 * * *

12 (29) “Regulated drug” means:

13 (A) a narcotic drug;

14 (B) a depressant or stimulant drug, other than methamphetamine;

15 (C) a hallucinogenic drug;

16 (D) Ecstasy;

17 (E) cannabis; ~~or~~

18 (F) methamphetamine; or

19 (G) xylazine.

20 * * *

1 (48) “Fentanyl” means any quantity of fentanyl, including any
2 compound, mixture, or preparation including salts, isomers, or salts of isomers
3 containing fentanyl. “Fentanyl” also means fentanyl-related substances as
4 defined in rules adopted by the Department of Health pursuant to section 4202
5 of this title.

6 (49) “Knowingly” means actual knowledge that one or more
7 preparations, compounds, mixtures, or substances contains the regulated drug
8 identified in the applicable section of this chapter, or consciously ignoring a
9 substantial risk that one or more preparations, compounds, mixtures, or
10 substances contains the regulated drug identified in the applicable section of
11 this chapter.

12 (50) “Xylazine” means any compound, mixture, or preparation
13 including salts, isomers, or salts of isomers containing N-(2,6-
14 dimethylphenyl)-5,6-dihydro-4H-1,3-thiazin-2-amine.

15 Sec. 2. 18 V.S.A. § 4233b is added to read:

16 § 4233b. XYLAZINE

17 (a)(1) It is unlawful for any person to engage in any of the following illicit
18 uses of xylazine:

19 (A) any use in the human species; or

20 (B) any use that is not a licit use.

21 (2) Licit use of xylazine means:

- 1 (A) any administration to nonhuman species:
- 2 (i) of a drug containing xylazine that has been approved by the
3 U.S. Secretary of Health and Human Services under section 512 of the Federal
4 Food, Drug, and Cosmetic Act, 21 U.S.C. § 360b; or
- 5 (ii) that is permissible under section 512(a)(4) of the Federal Food,
6 Drug, and Cosmetic Act, 21 U.S.C. § 360b(a)(4);
- 7 (B) the manufacturing, importation, or use of xylazine as an active
8 pharmaceutical ingredient for manufacturing an animal drug approved under
9 section 512 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 360b or
10 issued an investigation use exemption under subsection (j) of section 512;
- 11 (C) the manufacturing, importation, or use of a xylazine bulk
12 chemical for pharmaceutical compounding by licensed pharmacists or
13 veterinarians; or
- 14 (D) another use approved or permissible under the Federal Food,
15 Drug, and Cosmetic Act, as provided in 21 U.S.C. § 301 et seq.
- 16 (b) A person knowingly and unlawfully dispensing xylazine shall be
17 imprisoned not more than three years or fined not more than \$75,000.00, or
18 both. A person knowingly and unlawfully selling xylazine shall be imprisoned
19 not more than five years or fined not more than \$100,000.00, or both.

1 Sec. 3. 18 V.S.A. § 4250 is amended to read:

2 § 4250. SELLING OR DISPENSING A REGULATED DRUG WITH
3 DEATH RESULTING

4 (a) If the death of a person results from the selling or dispensing of a
5 regulated drug to the person in violation of this chapter, the person convicted
6 of the violation shall be imprisoned not less than two years nor more than
7 20 years.

8 (b) This section shall apply only if the person’s use of the regulated drug is
9 the proximate cause of ~~his or her~~ the person’s death. The fact that a dispensed
10 or sold substance contains more than one regulated drug shall not be a defense
11 under this section if the proximate cause of death is the use of the dispensed or
12 sold substance containing more than one regulated drug. There shall be a
13 permissive inference that the proximate cause of death is the person’s use of
14 the regulated drug if the regulated drug contains fentanyl.

15 (c)(1) Except as provided in subdivision (2) of this subsection, the two-year
16 minimum term of imprisonment required by this section shall be served and
17 may not be suspended, deferred, or served as a supervised sentence. The
18 defendant shall not be eligible for probation, parole, furlough, or any other type
19 of early release until the expiration of the two-year term of imprisonment.

20 (2) Notwithstanding subdivision (1) of this subsection, the court may
21 impose a sentence that does not include a term of imprisonment or that

1 includes a term of imprisonment of less than two years if the court makes
2 written findings on the record that the sentence will serve the interests of
3 justice.

4 Sec. 4. 18 V.S.A. § 4252a is added to read:

5 § 4252a. UNLAWFUL DRUG ACTIVITY IN A DWELLING; FLASH
6 CITATION; CONDITIONS OF RELEASE

7 (a) Except for good cause shown, a person cited or arrested for dispensing
8 or selling a regulated drug in violation of this chapter shall be arraigned on the
9 next business day after the citation or arrest if the alleged illegal activity
10 occurred at a dwelling where the person is not a legal tenant.

11 (b) Unless the person is held without bail for another offense, the State's
12 Attorney shall request conditions of release for a person subject to subsection
13 (a) of this section. The court may include as a condition of release that the
14 person is prohibited from coming within a fixed distance of the dwelling.

15 *** Eviction process based on tenant's criminal activity, illegal drug activity,

16 or acts of violence ***

17 Sec. 5. 9 V.S.A. § 4467 is amended to read:

18 § 4467. TERMINATION OF TENANCY; NOTICE

19 * * *

20 (b) Termination for breach of rental agreement.

1 **Sec. 7. 12 V.S.A. § 4857 is added to read:**

2 § 4857. EVICTION BASED ON CRIMINAL ACTIVITY, ILLEGAL DRUG
3 ACTIVITY, OR ACTS OF VIOLENCE; EXPEDITED PROCESS

4 For any action against a tenant for possession based on the tenant’s criminal
5 activity, illegal drug activity, or acts of violence under 9 V.S.A. § 4467(b)(2), a
6 tenant shall:

7 (1) answer the summons and complaint within 10 days after being
8 served; and

9 (2) file any counterclaims within 14 days after being served.

10 **Sec. 8. 12 V.S.A. § 4854 is amended to read:**

11 § 4854. JUDGMENT FOR PLAINTIFF; WRIT OF POSSESSION

12 (a) If the court finds that the plaintiff is entitled to possession of the
13 premises, the plaintiff shall have judgment for possession and rents due,
14 damages, and costs, and when a written rental agreement so provides, the court
15 may award reasonable attorney’s fees.

16 (b) A writ of possession shall issue on the date judgment is entered, unless
17 the court for good cause orders a stay. The writ shall direct the sheriff of the
18 county in which the property or a portion thereof is located to serve the writ
19 upon the defendant and, not earlier than 14 days after the writ is served, to put
20 the plaintiff into possession.

1 (11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and
2 aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a or an
3 attempt to commit either of those offenses; ~~or~~

4 (12) burglary into ~~an occupied dwelling as defined in a currently~~
5 ~~occupied dwelling in violation of~~ 13 V.S.A. § 1201(c) or an attempt to commit
6 that offense;

7 (13) using a firearm while committing a felony in violation of 13 V.S.A.
8 § 4005;

9 (14) trafficking a regulated drug in violation of 18 V.S.A. chapter 84,
10 subchapter 1;

11 (15) human trafficking or aggravated human trafficking in violation of
12 13 V.S.A. § 2652 or 2653, unless:

13 (A) the offender is a victim of human trafficking as defined in
14 13 V.S.A. § 2658(a)(2); or

15 (B) a law enforcement agency, a State's Attorneys' office, or the
16 Office of the Attorney General has notified the Victim's Compensation
17 Program at the Center for Crime Victims Services Unit pursuant to 13 V.S.A.
18 § 2663(a)(1) that the person reasonably appears to be a victim of human
19 trafficking; or

20 (16) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3).

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* * * Effective Date * * *

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

and that after passage the title of the bill be amended to read: “An act relating to ___”

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE