

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) No person shall possess, dispense, or sell xylazine except as provided in
18 subsection (b) of this section.

19 (b) The following are permitted activities related to xylazine:

20 (1) dispensing or prescribing for, or administration to, a nonhuman
21 species of a drug containing xylazine approved by the Secretary of Health and

1 Human Services pursuant to section 512 of the Federal Food, Drug, and
2 Cosmetic Act as provided in 21 U.S.C. § 360b;

3 (2) dispensing or prescribing for, or administration to, a nonhuman
4 species permissible pursuant to section 512(a)(4) of the Federal Food, Drug,
5 and Cosmetic Act as provided in 21 U.S.C. § 360b(a)(4);

6 (3) manufacturing, distribution, or use of Xylazine as an active
7 pharmaceutical ingredient for manufacturing an animal drug approved under
8 section 512 of the Federal Food, Drug, and Cosmetic Act as provided in
9 21 U.S.C. § 360b or issued an investigation use exemption pursuant to section
10 512(j);

11 (4) manufacturing, distribution, or use of a xylazine bulk chemical for
12 pharmaceutical compounding by licensed pharmacists or veterinarians; and

13 (5) any other use approved or permissible under the Federal Food, Drug,
14 and Cosmetic Act.

15 (c) A person knowingly and unlawfully dispensing xylazine shall be
16 imprisoned not more than three years or fined not more than \$75,000.00, or
17 both. A person knowingly and unlawfully selling xylazine shall be imprisoned
18 not more than five years or fined not more than \$100,000.00, or both.

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

20 § 4250. SELLING OR DISPENSING A REGULATED DRUG WITH
21 DEATH RESULTING

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

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

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

17 (2) Notwithstanding subdivision (1) of this subsection, the court may
18 impose a sentence that does not include a term of imprisonment or that
19 includes a term of imprisonment of less than two years if the court makes
20 written findings on the record that the sentence will serve the interests of
21 justice.

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

2 § 4252a. UNLAWFUL DRUG ACTIVITY IN A DWELLING; FLASH
3 CITATION; CONDITIONS OF RELEASE

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

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

12 * * * Eviction process based on tenant's criminal activity, illegal drug activity,
13 or acts of violence * * *

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

15 § 4467. TERMINATION OF TENANCY; NOTICE

16 * * *

17 (b) Termination for breach of rental agreement.

18 (1) The landlord may terminate a tenancy for failure of the tenant to
19 comply with a material term of the rental agreement or with obligations
20 imposed under this chapter by actual notice given to the tenant at least 30 days
21 prior to the termination date specified in the notice.

1 change in use of the park land or parts thereof or a termination of the mobile
2 home park, and only in accordance with the following procedure:

3 ~~(1)~~(A) A leaseholder shall not be evicted by force or any other self-help
4 measure.

5 ~~(2)~~(B) Prior to the commencement of any eviction proceeding, the park
6 owner shall notify the leaseholder by certified or registered mail, except as
7 provided in subdivision ~~(3)~~(C) of this ~~subsection~~ subdivision (a)(1):

8 ~~(A)~~(i) of the grounds for an eviction proceeding;

9 ~~(B)~~(ii) for an eviction based on nonpayment of rent, that an eviction
10 proceeding may be commenced if the leaseholder does not pay the overdue
11 rent within 20 days from the date of the mailing of the notice; and

12 (iii) for an eviction based on the leaseholder's criminal activity,
13 illegal drug activity, or acts of violence, any of which threaten the health or
14 safety of other residents, that an eviction proceeding may be commenced seven
15 days following the date of the mailing of the notice.

16 ~~(3)~~(C) A substantial violation of the lease terms of the mobile home
17 park or an additional nonpayment of rent occurring within six months of the
18 giving of the notice referred to in subdivision ~~(2)~~(B) of this ~~subsection~~
19 subdivision (a)(1) may result in immediate eviction proceedings.

20 ~~(4)~~(D) A substantial violation of the lease terms, other than an uncured
21 nonpayment of rent, will be insufficient to support a judgment of eviction

1 unless the proceeding is commenced within 60 days of the last alleged
2 violation. A substantial violation of the lease terms based upon criminal
3 activity will be insufficient to support a judgment of eviction unless the
4 proceeding is commenced no later than 60 days after arraignment.

5 ~~(5)(E)~~ [Repealed.]

6 (2) Any criminal activity, illegal drug activity, or acts of violence, any
7 of which threaten the health or safety of other residents, by the leaseholder
8 shall be deemed a substantial violation of the lease terms of the mobile home
9 park for purposes of this section. An eviction proceeding commenced against
10 a leaseholder on this basis shall be subject to the expedited eviction process
11 under 12 V.S.A. § 4857.

12 (b)(1) A Except as provided in subdivision (2) of this subsection, a
13 leaseholder shall not be evicted when there is proof that the lease terms the
14 leaseholder has been accused of violating are not enforced with respect to the
15 other leaseholders or others on the park premises.

16 (2) This subsection shall not apply to eviction proceedings commenced
17 against a leaseholder based on the leaseholder’s criminal activity, illegal drug
18 activity, or acts of violence, any of which threaten the health or safety of other
19 residents.

20 * * *

1 Sec. 8. 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 or leaseholder for possession based on the
5 tenant's or leaseholder's criminal activity, illegal drug activity, or acts of
6 violence, any of which threaten the health or safety of other residents, under 9
7 V.S.A. § 4467(b)(2) or 10 V.S.A. § 6237(a), a tenant or leaseholder shall:

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

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

11 Sec. 9. 12 V.S.A. § 4854 is amended to read:

12 § 4854. JUDGMENT FOR PLAINTIFF; WRIT OF POSSESSION

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

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

1

FOR THE COMMITTEE