

1 S.226

2 Introduced by Senators Doyle and Sears

3 Referred to Committee on Judiciary

4 Date: January 3, 2012

5 Subject: Health; regulated drugs; hallucinogenic drug; synthetic stimulants

6 Statement of purpose: This bill proposes to prohibit the possession or sale of  
7 "bath salts" and similar drugs.

~~An act relating to prohibiting synthetic stimulants~~ *An act relating to  
combating illegal diversion of prescription opiates and increasing  
treatment resources for opiate addiction*

8 It is hereby enacted by the General Assembly of the State of Vermont:

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

10 § 4201. DEFINITIONS

11 \* \* \*

12 (10) "Hallucinogenic drugs" means stramonium, mescaline or peyote,  
13 lysergic acid diethylamide, and psilocybin, and all synthetic equivalents of  
14 chemicals contained in resinous extractives of cannabis sativa, synthetic  
15 stimulants, or any salts or derivatives or compounds of any preparations or  
16 mixtures thereof, and any other substance which is designated as habit-forming  
17 or as having a serious potential for abuse arising out of its effect on the central  
18 nervous system or its hallucinogenic effect in the regulations adopted by the  
19 board of health under section 4202 of this title.

20 \* \* \*

1 ~~Sec. 2. EFFECTIVE DATE~~

2 ~~This act shall take effect on July 1, 2012.~~

*Sec. 1. INTEGRATED TREATMENT CONTINUUM FOR OPIATE  
DEPENDENCE (HUB AND SPOKE INITIATIVE)*

*(a) Prescription drug abuse is Vermont's fastest growing drug problem. Treatment demand has grown over 500 percent since 2005 for medication-assisted treatment from physicians and methadone programs.*

*(b) Increased crime is a community by-product of the increase in untreated addiction. Reducing demand for these substances is an essential component of Vermont's strategy to decrease the crime and health-related problems stemming from prescription drug abuse and opiate addiction.*

*(c) Current capacity for methadone and buprenorphine treatment is not sufficient to meet the demand. As a component of the development of health homes, expansion of these treatments shall be sought in order to meet the escalating demand.*

*(d) The integrated treatment continuum for opiate dependence, also known as the hub and spoke model, that is being developed by the agency of human services in collaboration with community providers will create a coordinated, systemic response to the complex issues of opiate addiction. The use of medication-assisted treatment, including counseling and behavioral therapy, will provide a holistic approach to address the component of demand reduction.*

*Sec. 2. 13 V.S.A. § 1404 is amended to read:*

*§ 1404. CONSPIRACY*

*(a) A person is guilty of conspiracy if, with the purpose that an offense listed in subsection (c) of this section be committed, that person agrees with one or more persons to commit or cause the commission of that offense, and at least two of the co-conspirators are persons who are neither law enforcement officials acting in official capacity nor persons acting in cooperation with a law enforcement official.*

*(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the defendant or by a co-conspirator, other than a law enforcement official acting in an official capacity or a person acting in cooperation with a law enforcement official, and subsequent to the defendant's entrance into the conspiracy. Speech alone may not constitute an overt act.*

*(c) This section applies only to a conspiracy to commit or cause the commission of one or more of the following offenses:*

*(1) Murder in the first or second degree.*

*(2) Arson under sections 501-504 and 506 of this title.*

*(3) Sexual exploitation of children under sections 7822, 2822, and 2824 of this title.*

*(4) Receiving stolen property under sections 2561-2564 of this title.*

*(5) An offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under section 4237, subdivision 4231(c)(1), or subsection 4233(c) or 4234a(c) of Title 18:*

*(A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana.*

*(B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine.*

*(C) 18 V.S.A. § 4233(c), relating to trafficking in heroin.*

*(D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than heroin or cocaine.*

*(E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine.*

*Sec. 3. 13 V.S.A. § 1409 is amended to read:*

*§ 1409. PENALTIES*

*The penalty for conspiracy is the same as that authorized for the crime which is the object of the conspiracy, ~~except that no term of imprisonment shall exceed five years, and no fine shall exceed \$10,000.00.~~ A sentence imposed under this section shall be concurrent with any sentence imposed for an offense which was an object of the conspiracy.*

*Sec. 4. 13 V.S.A. § 4005 is amended to read:*

*§ 4005. WHILE COMMITTING A CRIME*

*A ~~Except as otherwise provided in 18 V.S.A. § 4253,~~ a person who carries a dangerous or deadly weapon, openly or concealed, while committing a felony ~~or while committing an offense under section 667 of Title 7, or while committing the crime of smuggling of an alien as defined by the laws of the United States,~~ shall be imprisoned not more than five years or fined not more than \$500.00, or both.*

*Sec. 5. 18 V.S.A. § 4253 is added to read:*

§ 4253. USE OF A FIREARM WHILE SELLING OR DISPENSING A DRUG

(a) A person who uses a firearm during and in relation to selling or dispensing a regulated drug in violation of subdivision 4230(b)(3), 4231(b)(3), 4232(b)(3), 4233(b)(3), 4234(b)(3), 4234a(b)(3), 4235(c)(3), or 4235a(b)(3) of this title shall be imprisoned not more than three years or fined not more than \$5,000.00, or both, in addition to the penalty for the underlying crime.

(b) A person who uses a firearm during and in relation to trafficking a regulated drug in violation of subsection 4230(c), 4231(c), 4233(c), or 4234a(c) of this title shall be imprisoned not more than five years or fined not more than \$10,000.00, or both, in addition to the penalty for the underlying crime.

(c) For purposes of this section, “use of a firearm” shall include the exchange of firearms for drugs, and this section shall apply to the person who trades his or her firearms for drugs and the person who trades his or her drugs for firearms.

*Sec. 6. MOBILE ENFORCEMENT TEAM TO COMBAT GANG ACTIVITY*

(a) The Vermont drug task force (task force) was established in 1987 as a multi-jurisdictional, collaborative law enforcement approach to combating drug crime. The task force is composed of state, local, and county officers who are assigned to work undercover as full-time drug investigators. These investigators receive specialized training, equipment, and resources that enable them to conduct covert drug investigations. There are four units of the task force geographically located to cover all areas of the state. The drug investigators of each of the units are supervised by a state police sergeant. State police commanders of the special investigation section are responsible for overall supervision and oversight of the task force.

(b) Working closely with state, local, county, and federal law enforcement agencies, the task force strives to investigate and apprehend those individuals directly involved in the distribution of dangerous drugs. The task force focuses on mid- to upper-level dealers, but also targets street level dealers who are negatively impacting Vermont’s communities.

(c) To address the growing concern regarding gang involvement in the illegal drug trade as well as other gang-related criminal activity in Vermont’s communities, a mobile enforcement team (team) shall be established consistent with the task force model. According to the U.S. Department of Justice, a gang is defined as a group or association of three or more persons who may have a common identifying sign, symbol, or name and who individually or collectively

engage in or have engaged in criminal activity which creates an atmosphere of fear and intimidation.

(d) The team shall be made up of state and local investigators to include uniformed troopers and shall focus on gangs and organized criminal activity to include drug and gun trafficking and associated crimes. The team shall work closely with federal law enforcement agencies, state and federal prosecutors, the Vermont information and analysis center, and the department of corrections in collecting intelligence on gangs and organized criminal groups, to be shared with law enforcement partners throughout Vermont. The team shall not be assigned to a specific geographical area of Vermont but shall act as a rapid response team to specific identified problem areas.

**Sec. 7. GANG ACTIVITY TASK FORCE**

(a) The gang activity task force is established for the purpose of raising public awareness about gang activity and organized crime in Vermont and across state and international borders, identifying resources for local, county, and state law enforcement officials, recommending to the public ways to identify and report acts of gang activity and organized crime, and making findings and recommendations regarding those efforts to the general assembly.

(b) The task force shall be composed of the following members:

(1) The commissioner of public safety or his or her designee, who shall serve as chair.

(2) The commissioner of liquor control or his or her designee.

(3) Representatives, appointed by the governor, from the following:

(A) a municipal police department;

(B) a sheriff's department;

(C) the department of corrections;

(D) the department of education;

(E) the business community; and

(F) the health care community.

(4) The United States' attorney for Vermont.

(5) A representative of the Vermont crime victims services.

(6) An attorney appointed by the criminal law section of the Vermont Bar Association.

(7) A state's attorney appointed by the executive committee of the department of state's attorneys and sheriffs.

(8) A senator appointed by the president pro tempore.

(9) A representative appointed by the speaker of the house.

(c) The task force shall perform the following duties:

(1) Identify ways to raise public awareness about gang activity in Vermont communities.

(2) Recommend how the Vermont public, business community, local and state government, and health and education providers can best identify, report, and prevent acts of gang activity in Vermont.

(3) Identify the services needed by victims of gang activity and their families and recommend ways to provide those services.

(d) The task force shall have the assistance and cooperation of all state and local agencies and departments.

(e) For attendance at meetings, members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010, plus mileage.

(f) On or before November 15, 2012, the task force shall report to the members of the senate and house committees on judiciary and to the legislative council its recommendations and legislative proposals, if any, relating to its findings.

(g) The task force may meet no more than six times and shall cease to exist on January 15, 2013.

**Sec. 8. ATTORNEY GENERAL REPORT; RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT**

The attorney general shall examine the issue of gang activity in Vermont and assess whether Vermont would benefit from a state Racketeer Influenced and Corrupt Organizations Act. The attorney general shall consult with the gang activity task force and the defender general in his or her deliberations. The report shall identify existing Vermont and federal law that addresses organized crime and recommendations for enhancing these laws, including any legislation necessary to implement the recommendations. The attorney general shall issue the report to the general assembly no later than January 15, 2013.

**Sec. 9. APPROPRIATION; MOBILE ENFORCEMENT TEAM TO COMBAT GANG ACTIVITY**

(a) The amount of \$150,000.00 is appropriated from the general fund to the department of public safety to provide funding for the mobile enforcement team established in Sec. 6 of this act.

*(b) The commissioner of public safety may, at his or her discretion, utilize grants dedicated to fund the work of the drug task force to support the efforts of the gang task force and mobile enforcement team.*

*Sec. 10. EFFECTIVE DATE*

*This act shall take effect on passage.*