

1 S.60

2 Introduced by Senators Ashe and Sears

3 Referred to Committee on

4 Date:

5 Subject: Health; regulated drugs; limited immunity from liability for reporting
6 an overdose

7 Statement of purpose of bill as introduced: This bill proposes to grant limited
8 immunity from liability for:

9 (1) a person who, in good faith, seeks medical assistance for someone who
10 is experiencing a drug or alcohol overdose or other life-threatening medical
11 emergency; or

12 (2) a person who is experiencing a drug or alcohol overdose or other
13 life-threatening medical emergency and, in good faith, seeks medical
14 assistance for himself or herself or is the subject of a good faith request for
15 medical assistance.

16 An act relating to limited immunity from liability for reporting a drug or
17 alcohol overdose

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

2 Sec. 1. INTENT

3 It is the intent of the General Assembly to encourage a witness or victim of
4 a drug- or alcohol-related overdose to seek medical assistance in order to save
5 the life of an overdose victim by establishing a state policy of protecting the
6 witness or victim from prosecution and conviction for certain drug- and
7 alcohol-related crimes.

8 Sec. 2. 18 V.S.A. chapter 84, subchapter 3, which shall include §§ 4249–4254,
9 is added to read:

10 Subchapter 3. Miscellaneous

11 * * *

12 § 4254. IMMUNITY FROM LIABILITY

13 (a) As used in this section:

14 (1) “Drug or alcohol overdose” means an acute condition, including
15 physical illness, coma, mania, hysteria, or death resulting from the
16 consumption or use of a regulated drug or alcohol, which a layperson would
17 reasonably believe to be a drug or alcohol overdose that requires medical
18 assistance.

19 (2) “Medical assistance” means professional services provided to a
20 person experiencing a drug or alcohol overdose by a health care professional
21 licensed, registered, or certified under state law who, acting within his or her

1 lawful scope of practice, may provide diagnosis, treatment, or emergency
2 services for a person experiencing a drug or alcohol overdose.

3 (b) A person who, in good faith, seeks medical assistance for someone who
4 is experiencing a drug or alcohol overdose or other life-threatening medical
5 emergency shall not be cited, arrested or prosecuted for possessing, dispensing,
6 or being under the influence of a drug under this chapter or cited, arrested, or
7 prosecuted for possession of alcohol by someone under age 21 pursuant to
8 7 V.S.A §§ 656 and 657 or for providing to or enabling consumption of
9 alcohol by someone under age 21 pursuant to 7 V.S.A. § 658(a)–(c).

10 (c) A person who is experiencing a drug or alcohol overdose or other
11 life-threatening medical emergency and, in good faith, seeks medical
12 assistance for himself or herself or is the subject of a good faith request for
13 medical assistance shall not be cited, arrested, or prosecuted for possessing,
14 dispensing, or being under the influence of a drug under this chapter or cited,
15 arrested, or prosecuted for possession of alcohol by someone under age 21
16 pursuant to 7 V.S.A. §§ 656 and 657 or for providing to or enabling
17 consumption of alcohol by someone under age 21 pursuant to 7 V.S.A.
18 § 658(a)–(c).

19 (d) A person who seeks medical assistance for a drug or alcohol overdose
20 or other life-threatening medical emergency pursuant to subsection (b) or (c) of
21 this section shall not be subject to any of the penalties for violation of a

1 restraining order for possessing, dispensing, or being under the influence of a
2 drug or alcohol, for being at the scene of the drug or alcohol overdose, or for
3 being within close proximity to any person at the scene of the drug or
4 alcohol overdose.

5 (e) A person who seeks medical assistance for a drug or alcohol overdose
6 or other life-threatening medical emergency pursuant to subsection (b) or (c) of
7 this section shall not be subject to any sanction for a violation of a condition of
8 probation or parole for possessing, dispensing, or being under the influence of
9 a drug or alcohol.

10 (f)(1) A defendant may assert an affirmative defense to a charge of selling
11 or dispensing a regulated drug with death resulting under section 4250 of this
12 title if the defendant, in good faith, sought medical assistance for the deceased.

13 (2) A defendant may assert an affirmative defense to a charge of
14 criminal sale of a regulated drug if the prosecution relies on evidence obtained
15 as a result of the defendant, in good faith, seeking medical assistance for
16 someone, including himself or herself, experiencing a drug or alcohol overdose
17 or other life-threatening medical emergency or if the defendant was the subject
18 of a good faith request for health care. The affirmative defense shall not apply
19 to offenses charged under subsection 4237(c) of this title (dispensing or selling
20 on school grounds or abutting property).

1 (g) The act of seeking medical assistance for or by someone who is
2 experiencing a drug or alcohol overdose or other life-threatening medical
3 emergency shall be considered a mitigating circumstance at sentencing for a
4 violation of any other offense defined in this chapter.

5 (h) A person shall qualify for the immunity from liability provided in this
6 section only if the evidence for prosecution was gained as a result of the person
7 seeking medical assistance for a drug or alcohol overdose or other
8 life-threatening medical emergency.

9 (i) A person who seeks medical assistance for a drug or alcohol overdose or
10 other life-threatening medical emergency pursuant to subsection (b) or (c) of
11 this section shall not be subject to the provisions of subchapter 2 of this chapter
12 concerning property subject to forfeiture except that prima facie contraband
13 shall be subject to forfeiture.

14 (j) Nothing in this section shall be construed to bar the admissibility of any
15 evidence in connection with the investigation and prosecution of a crime with
16 regard to another defendant who does not independently qualify for protections
17 set forth in this section; nor with regard to other crimes committed by a person
18 who otherwise qualifies under this section; nor shall anything in this section be
19 construed to bar any seizure pursuant to law.

1 Sec. 3. DEPARTMENT OF HEALTH REPORT; OPIOID

2 ANTAGONISTS

3 No later than November 15, 2013, the Department of Health shall report to
4 the General Assembly detailed recommendations for permitting a practitioner
5 to prescribe and dispense lawfully naloxone or another opioid antagonist to a
6 person at risk of experiencing an opiate-related overdose or to a family
7 member, friend, or other person in a position to assist a person at risk of
8 experiencing an opiate-related overdose.

9 Sec. 4. EFFECTIVE DATE AND APPLICATION

10 (a) This act shall take effect on passage.

11 (b) Sec. 2 of this act shall apply only to a person who seeks medical
12 assistance for another in accordance with 18 V.S.A. § 4254(a) or (b) on or after
13 the date of passage.