

1 S.48

2 Introduced by Senators Benning, Baruth, Ashe, Cummings, Fox, McCormack,
3 Pollina, White, and Zuckerman

4 Referred to Committee on

5 Date:

6 Subject: Health; regulated drugs; marijuana

7 Statement of purpose of bill as introduced: This bill proposes to change the
8 penalty for possession of an ounce or less of marijuana by a person 21 years of
9 age or older from a criminal misdemeanor to a civil fine. A person who is
10 under the age of 21 who is caught in possession of an ounce or less of
11 marijuana is subject to the same penalties as provided in law for underage
12 possession of alcohol. Fines collected by the Judicial Bureau for enforcement
13 of the civil penalties established in this bill shall be divided between the State
14 for funding of law enforcement officers on the drug task force and the Court
15 Diversion Program for funding of the Teen Drug Awareness and Safety
16 Program.

17 An act relating to decriminalization of possession of one ounce or less of
18 marijuana

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

1 Sec. 2. 18 V.S.A. § 4230a is added to read:

2 § 4230a. MARIJUANA; CIVIL PENALTY

3 (a) No person shall knowingly and unlawfully possess marijuana in an
4 amount consisting of one or more preparations, compounds, mixtures, or
5 substances of an aggregate weight of one ounce or less containing any
6 marijuana.

7 (b) A person 21 years of age or older who violates this section shall be
8 assessed a civil penalty of not more than \$100.00. For a fifth or subsequent
9 violation of this section, a person 21 years of age or older shall be fined not
10 more than \$500.00.

11 (c)(1) Except as otherwise provided in this section, a person under the age
12 of 21 who violates subsection (a) of this section shall be punished in
13 accordance with the provisions set forth in 7 V.S.A. §§ 656 and 657, regarding
14 minors misrepresenting age and procuring, possessing, or consuming liquors.

15 (2) In lieu of the Teen Alcohol Safety Program required pursuant to
16 7 V.S.A. §§ 656 and 657, the diversion board shall register the person for a
17 Teen Drug Awareness and Safety Program. The Program, which the diversion
18 board shall establish pursuant to this section, shall provide at least four hours
19 of classroom instruction or group discussion and ten hours of community
20 service. The subject matter of the Program shall be specific to the use and

1 abuse of marijuana and other regulated drugs, with particular emphasis on
2 early detection and prevention of drug abuse.

3 (d)(1) Except as otherwise provided in this section, a person who possesses
4 one ounce or less of marijuana or who possesses paraphernalia for marijuana
5 use shall not be penalized or sanctioned in any manner by the State or any of
6 its political subdivisions or denied any right or privilege under state law,
7 including:

8 (A) denying the offender student financial aid, unemployment
9 benefits, public housing, or any other form of public financial assistance;

10 (B) denying the offender's right to operate a motor vehicle; or

11 (C) disqualifying an offender from serving as a foster or adoptive
12 parent.

13 (2) A violation of this section shall not result in the creation of a
14 criminal history record of any kind, and no information about the violation
15 shall be maintained in any criminal record or database.

16 (e) This section shall not:

17 (1) exempt any person from arrest or prosecution for being under the
18 influence of marijuana while operating a vehicle of any kind;

19 (2) be construed to repeal or modify existing laws or policies concerning
20 the operation of vehicles of any kind while under the influence of marijuana;

1 (3) be construed to prohibit a municipality from regulating, prohibiting,
2 or providing additional penalties for the use of marijuana in public places;

3 (4) be construed to limit the authority of primary and secondary schools
4 to impose noncriminal penalties for the possession of marijuana on school
5 property;

6 (5) be construed to affect the search and seizure laws afforded to duly
7 authorized law enforcement officers under the laws of this State.

8 (f) If a person suspected of violating this section challenges the presence of
9 cannabinoids, the person may request that the state crime laboratory test the
10 substance at the person's expense. If the substance tests negative for the
11 presence of cannabinoids, the State shall reimburse the person at state expense.

12 (g) Upon request by a law enforcement officer who reasonably suspects
13 that a person has committed or is committing a violation of this section, the
14 person shall give his or her name and address to the law enforcement officer
15 and shall produce a Vermont operator's license, a Vermont identification card,
16 a passport, or another suitable form of identification.

17 (h) The enforcement of this section by villages, towns, and cities shall be
18 by a local law enforcement officer or a law enforcement officer by contract
19 with the village, town, or city. Law enforcement officers under this subsection
20 shall have met minimum training requirements as provided in 20 V.S.A.
21 § 2358.

