

Journal of the House

Friday, April 12, 2013

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Pastor Brad Keller of Journey Church of South Royalton and Rutland, Vt.

Bill Referred to Committee on Appropriations

H. 536

House bill, entitled

An act relating to the Adjutant and Inspector General and the Vermont National Guard

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

Third Reading; Bill Passed in Concurrence With Proposal of Amendment

S. 104

Senate bill, entitled

An act relating to expedited partner therapy

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Favorable Report; Third Reading Ordered

H. 525

Rep. Cole of Burlington, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the Town of Stowe

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Third Reading; Bill Passed**H. 521**

House bill, entitled

An act relating to making miscellaneous amendments to education law

Was taken up, read the third time and passed.

Consideration Interrupted by Recess**H. 200**

Rep. Waite-Simpson of Essex, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to civil penalties for possession of marijuana

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) A No person shall knowingly and unlawfully ~~possessing~~ possess more than one ounce of marijuana or cultivate marijuana. For a first offense under this subdivision (A), a person shall be afforded the opportunity to participate in court diversion unless the prosecutor states on the record why a referral to court diversion would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense ~~under this subdivision~~ of knowingly and unlawfully possessing more than one ounce of marijuana or cultivating marijuana shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of two ounces or more containing any~~ marijuana or knowingly and unlawfully cultivating more than three plants of marijuana shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of one pound or more containing any~~ marijuana or knowingly and unlawfully cultivating more than 10 plants of marijuana shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of 10 pounds or more of~~ marijuana or knowingly and unlawfully cultivating more than 25 plants of marijuana shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) Prior to accepting a plea of guilty or a plea of nolo contendere from a defendant charged with a violation of this subsection, the court shall address the defendant personally in open court, informing the defendant and determining that the defendant understands that admitting to facts sufficient to warrant a finding of guilt or pleading guilty or nolo contendere to the charge may have collateral consequences such as loss of education financial aid, suspension or revocation of professional licenses, and restricted access to public benefits such as housing. If the court fails to provide the defendant with notice of collateral consequences in accordance with this subdivision and the defendant later at any time shows that the plea and conviction may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

* * *

(d) Only the portion of a marijuana-infused product that is attributable to marijuana shall count toward the possession limits of this section. The weight of marijuana that is attributable to marijuana-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis).

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

§ 4230a. MARIJUANA POSSESSION BY A PERSON OVER 21 YEARS
OF AGE; CIVIL PENALTY

(a) No person shall knowingly and unlawfully possess marijuana. A person 21 years of age or older who violates this section shall be assessed a civil penalty of not more than \$300.00.

(b)(1) Except as otherwise provided in this section, a person who possesses marijuana in an amount less than the amount in subdivision 4230(a)(1) (criminal possession of marijuana) or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under state law.

(2) A violation of this section shall not result in the creation of a criminal history record of any kind.

(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.

(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture, unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).

(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.

(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.

(e)(1) Upon request by a law enforcement officer who reasonably suspects that a person has committed or is committing a violation of this section, the person shall give his or her name and address to the law enforcement officer and shall produce a Vermont operator's license, a Vermont identification card, a passport, or another suitable form of identification.

(2) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(3) The person may be detained only until the person identifies himself or herself satisfactorily to the officer. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a Criminal Division of the Superior Court judge for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

(f) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be retained by the State for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be retained by the State. The remaining 50 percent shall be paid to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

Sec. 3. 18 V.S.A. § 4230b is added to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS
OF AGE; CIVIL PENALTY

(a) Offense. No person shall knowingly and unlawfully possess marijuana. A person under 21 years of age who violates this section commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, and a civil penalty of \$300.00 for a first or second offense and not more than \$1,000.00 for a third or subsequent offense.

(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person under 21 years of age who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a 90-day suspension of the person's operator's license and may face substantially increased insurance rates;

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

(c) Summons and Complaint. When a person is issued a notice of violation under this section, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

(d) Registration in Youth Substance Abuse Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Abuse Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended for 90 days, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(f)(1) Diversion Program Requirements. Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a state-certified or state-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense which the diversion program has imposed, the diversion program shall:

(A) void the summons and complaint with no penalty due; and

(B) send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, or any other information which identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to

the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.

(h) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section.

Sec. 4. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR
POSSESSION OF ALCOHOL

(a) A person shall not consume alcoholic beverages or smoke marijuana while operating a motor vehicle on a public highway. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

* * *

(d) A person who violates subsection (a) of this section shall be fined not more than \$500.00. A person who violates subsection (b) of this section shall be fined not more than \$25.00. A person convicted and fined for an offense under subsection (a) of this section shall not be subject to prosecution for the same actions under subsection (b) of this section.

Sec. 5. 23 V.S.A. § 1134(a) is amended to read:

(a) A person shall not consume alcoholic beverages ~~or smoke marijuana~~ while operating a motor vehicle on a public highway. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

Sec. 6. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) ~~The judicial bureau~~ Judicial Bureau shall have jurisdiction of the following matters:

* * *

(24) Violations of 18 V.S.A. §§ 4230a and 4230b , relating to possession of marijuana.

* * *

Sec. 7. TASK FORCE

(a) Creation of task force. There is created a Task Force for the purpose of developing recommendations to the General Assembly to address drugged driving in Vermont and whether the penalties for possession of alcohol by a person under 21 years of age should be the same as the penalties for possession of an ounce or less of marijuana by a person under 21 years of age as provided in this act.

(b) Membership. The Task Force shall be composed of four members as follows:

(1) the Commissioner of Public Safety or designee;

(2) the Commissioner of Health or designee;

(3) the Executive Director of State's Attorneys and Sheriffs or designee;
and

(4) the Defender General or designee.

(c) Report. By November 1, 2013, the Task Force shall report to the House and Senate Committees on Judiciary its findings and any recommendations for legislative action.

Sec. 8. EFFECTIVE DATES

(a) This section and Sec. 7 of this act shall take effect on passage.

(b) Sec. 5 of this act shall take effect on July 1, 2014.

(c) The remaining sections of this act shall take effect on July 1, 2013.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be amended as recommended by the committee on Judiciary? **Rep. Donahue of Northfield** moved to amend the report of the committee on Judiciary as follows:

First: By striking Secs. 4 and 5 and inserting in lieu thereof the following:

Sec. 4. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR
POSSESSION OF ALCOHOL

(a) A person shall not consume alcoholic beverages or smoke marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any:

(1) open container which contains alcoholic beverages in the passenger area of the motor vehicle; or

(2) marijuana in an unsealed package.

(c) For the purposes of this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be fined not more than \$500.00. A person who violates subsection (b) of this section shall be fined not more than \$25.00. A person convicted and fined for an offense under subsection (a) of this section shall not be subject to prosecution for the same actions under subsection (b) of this section.

Sec. 4a. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR
POSSESSION OF ALCOHOL

(a) A person shall not consume alcoholic beverages ~~or smoke marijuana~~ while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any:

~~(1) open container which contains alcoholic beverages in the passenger area of the motor vehicle; or~~

~~(2) marijuana in an unsealed package.~~

(c) For the purposes of this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be fined not more than \$500.00. A person who violates subsection (b) of this section shall be fined not more than \$25.00. A person convicted and fined for an offense under subsection (a) of this section shall not be subject to prosecution for the same actions under subsection (b) of this section.

Sec. 5. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR
POSSESSION OF ALCOHOL

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages, smoke marijuana, ~~or possess any open container which contains alcoholic beverages, or possess marijuana in an unsealed package~~ in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) For the purposes of this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 5a. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR
POSSESSION OF ALCOHOL

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages, ~~smoke marijuana, or possess any open container which contains alcoholic beverages, or possess marijuana in an unsealed package~~ in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) For the purposes of this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Second: In Sec. 8 by striking subsection (b) and inserting in lieu thereof the following:

(b) Secs. 4a and 5a of this act shall take effect on July 1, 2014.

Thereupon, **Rep. Donahue of Northfield** asked and was granted leave of the House to withdraw her amendment.

Pending the question, Shall the bill be amended as recommended by the committee on Judiciary? **Rep. Donahue of Northfield** moved to amend the report of the committee on Judiciary as follows:

In Sec. 1, 18 V.S.A. § 4230(a)(1)(A), in the first sentence after “more than one ounce of marijuana” by adding “, use or display marijuana in a public place,” and after the first sentence by adding “For purposes of this subdivision, “public place” means any street, alley, park, sidewalk, public building other than individual dwellings, or any place of public accommodation as defined in 9 V.S.A. § 4501.”

Thereupon, **Rep. Donahue of Northfield** asked and was granted leave of the House to withdraw her amendment.

Recess

At ten o'clock and forty-five minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At eleven o'clock in the forenoon, the Speaker called the House to order.

Consideration Resumed; Consideration Interrupted by Recess

H. 200

Consideration resumed on House bill, entitled

An act relating to civil penalties for possession of marijuana;

Pending the question, Shall the bill be amended as recommended by the committee on Judiciary? **Rep. Wright of Burlington** moved to amend the report of the committee on Judiciary as follows:

By adding a new Sec. 7a to read as follows:

Sec. 7a. SUNSET

(a) Secs. 2 and 3 of this act shall be repealed on July 1, 2016.

(b) On July 1, 2016, 18 V.S.A. § 4230 and 4 V.S.A. § 1102, as amended by Secs. 1 and 6 of this act, shall be amended to revert to the language those sections contained prior to the enactment of this act.

Pending the question, Shall the report of the committee be amended as recommended by Rep. Wright of Burlington? **Rep. Woodward of Johnson** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the committee be amended as recommended by Rep. Wright of Burlington? was decided in the negative. Yeas, 38. Nays, 102.

Those who voted in the affirmative are:

Beyor of Highgate	Dickinson of St. Albans	Kilmartin of Newport City
Bissonnette of Winooski	Town	Larocque of Barnet
Bouchard of Colchester	Donahue of Northfield	Lawrence of Lyndon
Branagan of Georgia	Feltus of Lyndon	Lewis of Berlin
Brennan of Colchester	Gage of Rutland City	Marcotte of Coventry
Browning of Arlington	Hebert of Vernon	McFaun of Barre Town
Buxton of Tunbridge	Helm of Fair Haven	Morrissey of Bennington
Canfield of Fair Haven	Higley of Lowell	Myers of Essex
Cupoli of Rutland City	Hubert of Milton	Pearce of Richford
Devereux of Mount Holly	Johnson of Canaan	Quimby of Concord
	Juskiewicz of Cambridge	Savage of Swanton

Shaw of Pittsford
Smith of New Haven
Strong of Albany

Turner of Milton
Van Wyck of Ferrisburgh
Winters of Williamstown

Wright of Burlington

Those who voted in the negative are:

Ancel of Calais
Bartholomew of Hartland
Batchelor of Derby
Botzow of Pownal
Burditt of West Rutland
Burke of Brattleboro
Campion of Bennington
Carr of Brandon
Christie of Hartford
Clarkson of Woodstock
Cole of Burlington
Condon of Colchester
Conquest of Newbury
Consejo of Sheldon
Copeland-Hanzas of
Bradford
Corcoran of Bennington
Cross of Winooski
Dakin of Chester
Davis of Washington
Deen of Westminster
Donovan of Burlington
Ellis of Waterbury
Emmons of Springfield
Fagan of Rutland City
Fay of St. Johnsbury
Fisher of Lincoln
Frank of Underhill
French of Randolph
Gallivan of Chittenden
Goodwin of Weston
Grad of Moretown
Greshin of Warren
Haas of Rochester
Head of South Burlington

Heath of Westford
Hooper of Montpelier
Huntley of Cavendish
Jerman of Essex
Jewett of Ripton
Johnson of South Hero
Keenan of St. Albans City
Kitzmiller of Montpelier
Klein of East Montpelier
Koch of Barre Town
Komline of Dorset
Krebs of South Hero
Krowinski of Burlington
Kupersmith of South
Burlington
Lenes of Shelburne
Lippert of Hinesburg
Macaig of Williston
Malcolm of Pawlet
Manwaring of Wilmington
Marek of Newfane
Martin of Springfield
Masland of Thetford
McCarthy of St. Albans City
McCormack of Burlington
McCullough of Williston
Michelsen of Hardwick
Miller of Shaftsbury
Mitchell of Fairfax
Mook of Bennington
Moran of Wardsboro
Mrowicki of Putney
Nuovo of Middlebury
O'Brien of Richmond
O'Sullivan of Burlington

Partridge of Windham
Pearson of Burlington
Peltz of Woodbury
Poirier of Barre City
Pugh of South Burlington
Rachelson of Burlington
Ram of Burlington
Russell of Rutland City
Scheuermann of Stowe
Sharpe of Bristol
Shaw of Derby
Spengler of Colchester
Stevens of Waterbury
Stevens of Shoreham
Stuart of Brattleboro
Sweaney of Windsor
Taylor of Barre City
Terenzini of Rutland Town
Till of Jericho
Toleno of Brattleboro
Toll of Danville
Townsend of Randolph
Townsend of South
Burlington
Trieber of Rockingham
Vowinkel of Hartford
Waite-Simpson of Essex
Webb of Shelburne
Weed of Enosburgh
Wilson of Manchester
Wizowaty of Burlington
Woodward of Johnson
Yantachka of Charlotte
Young of Glover
Zagar of Barnard

Those members absent with leave of the House and not voting are:

Cheney of Norwich
Connor of Fairfield
Donaghy of Poultney

Evans of Essex
Lanpher of Vergennes
Martin of Wolcott

Potter of Clarendon
Ralston of Middlebury
South of St. Johnsbury

Thereupon, **Rep. Branagan of Georgia** moved to commit the bill to Ways and Means, which was disagreed to.

Recess

At twelve o'clock, noon, the Speaker declared a recess until twelve o'clock and fifty minutes in the afternoon.

At twelve o'clock and fifty minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Bill Amended and Third Reading Ordered

H. 200

Consideration resumed on House bill, entitled

An act relating to civil penalties for possession of marijuana;

Pending the recurring question, Shall the bill be amended as recommended by the committee on Judiciary, **Rep. Branagan of Georgia** moved to postpone action on the bill until Tuesday, April 16, 2013.

Pending the question, Shall action on the bill be postponed until April 16, 2013? **Rep. Canfield of Fair Haven** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall action on the bill be postponed until April 16, 2013? was decided in the negative. Yeas, 41. Nays, 98.

Those who voted in the affirmative are:

Batchelor of Derby	Gage of Rutland City	Myers of Essex
Beyor of Highgate	Hebert of Vernon	Pearce of Richford
Bouchard of Colchester	Helm of Fair Haven	Poirier of Barre City
Branagan of Georgia	Higley of Lowell	Quimby of Concord
Browning of Arlington	Hubert of Milton	Savage of Swanton
Burditt of West Rutland	Johnson of Canaan	Shaw of Pittsford
Canfield of Fair Haven	Juskiewicz of Cambridge	Shaw of Derby
Cupoli of Rutland City	Keenan of St. Albans City	Smith of New Haven
Devereux of Mount Holly	Kilmartin of Newport City	Strong of Albany
Dickinson of St. Albans Town	Lawrence of Lyndon	Terenzini of Rutland Town
Donaghy of Poultney	Lewis of Berlin	Turner of Milton
Fagan of Rutland City	Marcotte of Coventry	Van Wyck of Ferrisburgh
Feltus of Lyndon	McFaun of Barre Town	Winters of Williamstown
	Morrissey of Bennington	Wright of Burlington

Those who voted in the negative are:

Ancel of Calais	Botzow of Pownal	Buxton of Tunbridge
Bartholomew of Hartland	Brennan of Colchester	Campion of Bennington
Bissonnette of Winooski	Burke of Brattleboro	Carr of Brandon

Christie of Hartford	Jewett of Ripton	O'Sullivan of Burlington
Clarkson of Woodstock	Johnson of South Hero	Partridge of Windham
Cole of Burlington	Kitzmiller of Montpelier	Pearson of Burlington
Connor of Fairfield	Klein of East Montpelier	Peltz of Woodbury
Conquest of Newbury	Koch of Barre Town	Pugh of South Burlington
Consejo of Sheldon	Komline of Dorset	Rachelson of Burlington
Copeland-Hanzas of Bradford	Krebs of South Hero	Ram of Burlington
Corcoran of Bennington	Krowinski of Burlington	Russell of Rutland City
Cross of Winooski	Kupersmith of South Burlington	Scheuermann of Stowe
Dakin of Chester	Lanpher of Vergennes	Sharpe of Bristol
Davis of Washington	Larocque of Barnet	Spengler of Colchester
Deen of Westminster	Lenes of Shelburne	Stevens of Waterbury
Donahue of Northfield	Lippert of Hinesburg	Stuart of Brattleboro
Donovan of Burlington	Macaig of Williston	Sweaney of Windsor
Ellis of Waterbury	Malcolm of Pawlet	Taylor of Barre City
Emmons of Springfield	Manwaring of Wilmington	Toleno of Brattleboro
Fay of St. Johnsbury	Marek of Newfane	Toll of Danville
Fisher of Lincoln	Martin of Springfield	Townsend of Randolph
Frank of Underhill	Masland of Thetford	Townsend of South Burlington
French of Randolph	McCarthy of St. Albans City	Vowinkel of Hartford
Gallivan of Chittenden	McCormack of Burlington	Waite-Simpson of Essex
Goodwin of Weston	McCullough of Williston	Webb of Shelburne
Grad of Moretown	Michelsen of Hardwick	Weed of Enosburgh
Greshin of Warren	Miller of Shaftsbury	Wilson of Manchester
Haas of Rochester	Mitchell of Fairfax	Wizowaty of Burlington
Head of South Burlington	Mook of Bennington	Woodward of Johnson
Heath of Westford	Moran of Wardsboro	Yantachka of Charlotte
Hooper of Montpelier	Mrowicki of Putney	Young of Glover
Huntley of Cavendish	Nuovo of Middlebury	Zagar of Barnard
Jerman of Essex	O'Brien of Richmond	

Those members absent with leave of the House and not voting are:

Cheney of Norwich	Potter of Clarendon	Till of Jericho
Condon of Colchester	Ralston of Middlebury	Trieber of Rockingham
Evans of Essex	South of St. Johnsbury	
Martin of Wolcott	Stevens of Shoreham	

Thereupon, the recommendation of amendment offered by the committee on Judiciary was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Turner of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 98. Nays, 44.

Those who voted in the affirmative are:

Ancel of Calais	Haas of Rochester	O'Brien of Richmond
Bartholomew of Hartland	Head of South Burlington	O'Sullivan of Burlington
Botzow of Pownal	Heath of Westford	Partridge of Windham
Burditt of West Rutland	Hooper of Montpelier	Pearson of Burlington
Burke of Brattleboro	Huntley of Cavendish	Peltz of Woodbury
Buxton of Tunbridge *	Jerman of Essex	Poirier of Barre City
Campion of Bennington	Jewett of Ripton	Pugh of South Burlington
Carr of Brandon	Johnson of South Hero	Rachelson of Burlington
Christie of Hartford	Keenan of St. Albans City	Ram of Burlington
Clarkson of Woodstock	Kitzmiller of Montpelier	Scheuermann of Stowe
Cole of Burlington	Klein of East Montpelier	Sharpe of Bristol
Condon of Colchester	Koch of Barre Town	Spengler of Colchester
Connor of Fairfield	Komline of Dorset	Stevens of Waterbury *
Conquest of Newbury	Krowinski of Burlington	Stevens of Shoreham
Consejo of Sheldon	Kupersmith of South Burlington	Stuart of Brattleboro
Copeland-Hanzas of Bradford	Larocque of Barnet	Sweaney of Windsor
Cross of Winooski	Lewis of Berlin	Taylor of Barre City
Dakin of Chester	Lippert of Hinesburg	Toleno of Brattleboro
Davis of Washington *	Macaig of Williston	Toll of Danville
Deen of Westminster	Malcolm of Pawlet	Townsend of South Burlington
Donahue of Northfield	Marek of Newfane	Trieber of Rockingham
Donovan of Burlington	Martin of Springfield	Vowinkel of Hartford
Ellis of Waterbury	Masland of Thetford	Waite-Simpson of Essex
Emmons of Springfield	McCarthy of St. Albans City	Webb of Shelburne
Fay of St. Johnsbury	McCormack of Burlington	Weed of Enosburgh
Feltus of Lyndon	McCullough of Williston	Wilson of Manchester
Fisher of Lincoln	Michelsen of Hardwick	Wizowaty of Burlington
Frank of Underhill	Miller of Shaftsbury	Woodward of Johnson
French of Randolph	Mitchell of Fairfax	Wright of Burlington
Gallivan of Chittenden	Mook of Bennington	Yantachka of Charlotte
Goodwin of Weston	Moran of Wardsboro	Young of Glover
Grad of Moretown	Mrowicki of Putney	Zagar of Barnard
Greshin of Warren	Nuovo of Middlebury	

Those who voted in the negative are:

Batchelor of Derby *	Dickinson of St. Albans Town *	Kilmartin of Newport City *
Beyor of Highgate	Donaghy of Poultney	Krebs of South Hero
Bissonnette of Winooski	Fagan of Rutland City *	Lanpher of Vergennes
Bouchard of Colchester *	Gage of Rutland City	Lawrence of Lyndon
Branagan of Georgia *	Hebert of Vernon	Lenes of Shelburne
Brennan of Colchester	Helm of Fair Haven	Manwaring of Wilmington
Browning of Arlington *	Higley of Lowell	Marcotte of Coventry
Canfield of Fair Haven	Hubert of Milton	McFaun of Barre Town
Corcoran of Bennington	Johnson of Canaan	Morrissey of Bennington
Cupoli of Rutland City	Juskiewicz of Cambridge	Myers of Essex
Devereux of Mount Holly		Pearce of Richford

Quimby of Concord	Shaw of Derby	Townsend of Randolph
Russell of Rutland City	Smith of New Haven	Turner of Milton
Savage of Swanton	Strong of Albany *	Van Wyck of Ferrisburgh
Shaw of Pittsford *	Terenzini of Rutland Town	Winters of Williamstown

Those members absent with leave of the House and not voting are:

Cheney of Norwich	Potter of Clarendon	Till of Jericho
Evans of Essex	Ralston of Middlebury	
Martin of Wolcott	South of St. Johnsbury	

Rep. Batchelor of Derby explained her vote as follows:

“Mr. Speaker:

I am voting no on bill H.200. I believe it is wrong to send this message to not only our young people but to all Vermonters.”

Rep. Bouchard of Colchester explained his vote as follows:

“Mr. Speaker:

I think this bill moves Vermont in the wrong direction. It is sending our children and grandchildren a wrong message.”

Rep. Branagan of Georgia explained her vote as follows:

“Mr. Speaker:

Why did we not see the information concerning the fiscal impact of these changes on revenue and expenditures for the state? When we are forced to vote without complete information, those we serve lose out.”

Rep. Browning of Arlington explained her vote as follows:

“Mr. Speaker:

I vote no because this bill is deeply flawed. The desire to protect young people from the criminal consequences of a mistake could have been solved with mandatory diversion under current law. The decriminalization goes into effect without usable tests for marijuana DUI. And the amount decriminalized is so large that it might not be solely for personal use.”

Rep. Buxton of Tunbridge explained her vote as follows:

“Mr. Speaker:

In two different surveys of my constituents on this issue within the last year, over 70% of respondents voiced support for this legislation. My vote reflects the views of the people I am here to represent.”

Rep. Davis of Washington explained her vote as follows:

“Mr. Speaker:

When we took our oath, we vowed to do no harm. For me, more harm is caused by criminal prohibition of marijuana than by the use of marijuana itself. That is why I support H.200.”

Rep. Dickenson of St. Albans Town explained her vote as follows:

“Mr. Speaker:

I vote no on this bill. Potential employees do not need a criminal record for drug use to have difficulty getting or retaining a job. Employers have the right to do drug tests on employees and they do, in all business sectors. This bill ignores the impact on our workforce and it is disappointing that the committee did not hear testimony regarding this issue.”

Rep. Fagan of Rutland City explained his vote as follows:

“Mr. Speaker:

For the past 20 years I have talked to my children, answered their questions and advised them to not use drugs. Someday, if they so bless me, I hope to have the same discussion with my grandchildren and advise them to not use drugs. I cannot and will not advise them to do as I say and not as I vote. So, I vote no to decriminalization.”

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

I vote ‘no.’ The proponents claim they are doing this to save our young people from the consequences of youthful indiscretions, i.e., criminal convictions for ‘minor’ possessions of marijuana. The opposite is true. They are using our children as sacrifices on the altar of smug and callous self-indulgence. The message to our children is ‘it’s OK’ to toke up. While not all children ‘taking up’ will become substance addicts, we know that many will. It’s really NOT for the children regardless of the semantic smoke and mirrors. It’s for arrested, rebellious adolescents masquerading as adults.

Rep. Shaw of Pittsford explained his vote as follows:

“Mr. Speaker:

I heard the word legalize several time on the floor today. My concern is our youth will translate decriminalization to mean legalize. That is not a translation or message I am comfortable with. Hence my no vote.”

Rep. Stevens of Waterbury explained his vote as follows:

“Mr. Speaker:

I voted yes for this well-crafted and thoughtful bill. While the change in law reflects a change in penalties, it does not condone use. By lessening the immediate penalties, it gives those who use marijuana – and get caught – an opportunity to straighten out their lives before they are ruined by perceived poor choices. The message I’ve sent to my children is this: Purchase and use of marijuana is illegal. If you are caught, there are consequences. The message the state sends today is that we will show compassion towards initial offenders. But only for a while.”

Rep. Strong of Albany explained her vote as follows:

“Mr. Speaker:

As a legislator who helps shape public policy I want to give the message to my constituents that I encourage all Vermonters to make the healthiest possible choices with their lives. I believe that decriminalizing marijuana lowers the bar on that message, and I am not willing to support it.”

Message from the Senate No. 41

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 86. An act relating to miscellaneous changes to election laws.

In the passage of which the concurrence of the House is requested.

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 21. Senate concurrent resolution congratulating iBrattleboro on its tenth anniversary.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 97. House concurrent resolution honoring Girls on the Run of Vermont, Inc.

H.C.R. 98. House concurrent resolution congratulating the 2012 Randolph Union High School Galloping Ghosts Division III championship girls' cross-country team.

H.C.R. 99. House concurrent resolution honoring Lyndon State College and designating April 17, 2013 as Green and Gold Day.

H.C.R. 100. House concurrent resolution congratulating the 2013 Mt. Abraham Union High School Eagles Division II championship girls' basketball team.

H.C.R. 101. House concurrent resolution congratulating Joel Najman on his 30th anniversary as Vermont Public Radio's rock and roll impresario.

H.C.R. 102. House concurrent resolution congratulating Gandin Brothers, Inc. of South Ryegate on its 100th anniversary.

H.C.R. 103. House concurrent resolution commemorating the semiquincentennial anniversary of the Town of Westford.

H.C.R. 104. House concurrent resolution congratulating Christian DeKett of St. Johnsbury Academy on winning the 2013 Vermont State Poetry Out Loud championship.

Adjournment

At one o'clock and fifty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until Tuesday, April 16, 2013, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 25.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 97

House concurrent resolution honoring Girls on the Run of Vermont, Inc.;

H.C.R. 98

House concurrent resolution congratulating the 2012 Randolph Union High School Galloping Ghosts Division III championship girls' cross-country team;

H.C.R. 99

House concurrent resolution honoring Lyndon State College and designating April 17, 2013 as Green and Gold Day;

H.C.R. 100

House concurrent resolution congratulating the 2013 Mt. Abraham Union High School Eagles Division II championship girls' basketball team;

H.C.R. 101

House concurrent resolution congratulating Joel Najman on his 30th anniversary as Vermont Public Radio's rock and roll impresario;

H.C.R. 102

House concurrent resolution congratulating Gandin Brothers, Inc. of South Ryegate on its 100th anniversary;

H.C.R. 103

House concurrent resolution commemorating the semiquincentennial anniversary of the Town of Westford;

H.C.R. 104

House concurrent resolution congratulating Christian DeKett of St. Johnsbury Academy on winning the 2013 Vermont State Poetry Out Loud championship;

S.C.R. 21

Senate concurrent resolution congratulating iBrattleboro on its tenth anniversary;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2013, seventy-second Adjourned session.]