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S.241

Representative ABC moves that the House propose to the Senate that the bill as amended by the House Committee on Judiciary be further amended as follows:

First: By adding new Secs. 3a and 3b to read as follows:

Sec. 3a. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program 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 of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

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

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE
OR OLDER; ~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

- ~~(1) not more than \$200.00 for a first offense;~~
- ~~(2) not more than \$300.00 for a second offense;~~
- ~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana ~~or~~ five grams or less of hashish, or no more than two marijuana plants, 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~~ Each dwelling unit shall be limited to two marijuana plants, regardless of how many persons 21 years or older reside in the dwelling unit. As used in this section, “dwelling unit” means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or

1 more persons who maintain a household. A violation of this subdivision shall
2 be punished in accordance with subdivision 4230(a)(1)(A) of this title.

3 (b)(1) Immunity provided under this section for possession of no more than
4 two marijuana plants shall apply only if the person in possession of the
5 marijuana plants has obtained a permit from the Department of Health and paid
6 an annual fee of \$XXXX. The permit shall be kept with the marijuana plants
7 and produced at the request of a law enforcement officer.

8 (2) The Marijuana Youth Prevention and Education Fund is hereby
9 created. The Fund shall be maintained by the Department of Health and shall
10 be composed of fees collected pursuant to this subsection. Funds shall be used
11 for marijuana prevention, education, and counter marketing programs.

12 (3) The Department of Health shall develop a permitting system in
13 accordance with this section. All records relating to such permits shall be
14 exempt from public inspection and copying under the Public Records Act.

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

20 ~~(2) This section is not intended to affect the search and seizure laws~~
21 ~~afforded to duly authorized law enforcement officers under the laws of this~~

1 ~~State. Marijuana is contraband pursuant to section 4242 of this title and~~
2 ~~subject to seizure and forfeiture unless possessed in compliance with chapter~~
3 ~~86 of this title (therapeutic use of cannabis).~~

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

7 * * *

8 Second: By striking Sec. 17 in its entirety and inserting in lieu thereof the
9 following:

10 Sec. 17. EFFECTIVE DATE

11 (a) Secs. 3a and 3b shall take effect September 1, 2016.

12 (b) The remaining sections of this act take effect on July 1, 2016.

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