

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 797  
3 entitled “An act relating to unlawful possession of a regulated drug”  
4 respectfully reports that it has considered the same and recommends that the  
5 bill be amended by striking out all after the enacting clause and inserting in  
6 lieu thereof the following:

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

8 § 4230. MARIJUANA

9 (a) Possession and cultivation.

10 (1)(A) No person shall knowingly and unlawfully possess more than one  
11 ounce of marijuana or more than five grams of hashish or cultivate more than  
12 two mature marijuana plants or four immature marijuana plants. For a first  
13 offense under this subdivision (A), a person shall be provided the opportunity  
14 to participate in the Court Diversion Program unless the prosecutor states on  
15 the record why a referral to the Court Diversion Program would not serve the  
16 ends of justice. A person convicted of a first offense under this subdivision  
17 shall be imprisoned not more than six months or fined not more than \$500.00,  
18 or both.

19 (B) A person convicted of a second or subsequent offense of  
20 knowingly and unlawfully possessing more than one ounce of marijuana or  
21 more than five grams of hashish or cultivating more than two mature marijuana

1 plants or four immature marijuana plants shall be imprisoned not more than  
2 two years or fined not more than \$2,000.00, or both.

3 (C) Upon an adjudication of guilt for a first or second offense under  
4 this subdivision, the court may defer sentencing as provided in 13 V.S.A.  
5 § 7041, except that the court may in its discretion defer sentence without the  
6 filing of a presentence investigation report and except that sentence may be  
7 imposed at any time within two years from and after the date of entry of  
8 deferment. The court may, prior to sentencing, order that the defendant submit  
9 to a drug assessment screening, which may be considered at sentencing in the  
10 same manner as a presentence report.

11 (2) A person knowingly and unlawfully possessing with intent to sell  
12 two ounces of marijuana, or 10 grams of hashish, or knowingly and unlawfully  
13 cultivating more than four mature marijuana plants or eight immature  
14 marijuana plants shall be imprisoned not more than three years or fined not  
15 more than \$10,000.00, or both.

16 (3) ~~A person knowingly and unlawfully possessing more than one pound~~  
17 ~~of marijuana or more than 2.8 ounces of hashish or knowingly and unlawfully~~  
18 ~~cultivating more than six mature marijuana plants or 12 immature marijuana~~  
19 ~~plants shall be imprisoned not more than five years or fined not more than~~  
20 ~~\$10,000.00, or both. [Repealed.]~~

1           (4) ~~A person knowingly and unlawfully possessing more than 10 pounds~~  
2 ~~of marijuana or more than one pound of hashish or knowingly and unlawfully~~  
3 ~~cultivating more than 12 mature marijuana plants or 24 immature marijuana~~  
4 ~~plants shall be imprisoned not more than 15 years or fined not more than~~  
5 ~~\$500,000.00, or both. [Repealed.]~~

6           (5) If a court fails to provide the defendant with notice of collateral  
7 consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later  
8 at any time shows that the plea and conviction for a violation of this subsection  
9 may have or has had a negative consequence, the court, upon the defendant's  
10 motion, shall vacate the judgment and permit the defendant to withdraw the  
11 plea or admission and enter a plea of not guilty. Failure of the court to advise  
12 the defendant of a particular collateral consequence shall not support a motion  
13 to vacate.

14           (6) The amounts of marijuana in this subsection shall not include  
15 marijuana cultivated, harvested, and stored in accordance with section 4230e  
16 of this title.

17           (b) Selling or dispensing.

18           (1) A person knowingly and unlawfully selling marijuana or hashish  
19 shall be imprisoned not more than two years or fined not more than  
20 \$10,000.00, or both.

1           (2) A person knowingly and unlawfully selling or dispensing more than  
2 one ounce of marijuana or five grams or more of hashish shall be imprisoned  
3 not more than five years or fined not more than \$100,000.00, or both.

4           (3) A person knowingly and unlawfully selling or dispensing one pound  
5 or more of marijuana or 2.8 ounces or more of hashish shall be imprisoned not  
6 more than 15 years or fined not more than \$500,000.00, or both.

7           (c) Trafficking. A person knowingly and unlawfully possessing 50 pounds  
8 or more of marijuana or five pounds or more of hashish with the intent to sell  
9 or dispense the marijuana or hashish shall be imprisoned not more than  
10 30 years or fined not more than \$1,000,000.00, or both. There shall be a  
11 permissive inference that a person who possesses 50 pounds or more of  
12 marijuana or five pounds or more of hashish intends to sell or dispense the  
13 marijuana or hashish.

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

19 Sec. 2. 18 V.S.A. § 4231 is amended to read:

20 § 4231. COCAINE

21           (a) Possession.

1 (1) A person knowingly and unlawfully possessing cocaine shall be  
2 imprisoned not more than one year or fined not more than \$2,000.00, or both.

3 (2) A person knowingly and unlawfully possessing with intent to sell  
4 cocaine in an amount consisting of ~~2.5~~ 3.5 grams or more of one or more  
5 preparations, compounds, mixtures, or substances containing cocaine shall be  
6 imprisoned not more than five years or fined not more than \$100,000.00,  
7 or both.

8 (3) ~~A person knowingly and unlawfully possessing cocaine in an~~  
9 ~~amount consisting of one ounce or more of one or more preparations,~~  
10 ~~compounds, mixtures, or substances containing cocaine shall be imprisoned~~  
11 ~~not more than 10 years or fined not more than \$250,000.00, or both.~~

12 [Repealed.]

13 (4) ~~[Deleted.]~~ [Repealed.]

14 (b) Selling or dispensing.

15 (1) A person knowingly and unlawfully dispensing cocaine shall be  
16 imprisoned not more than three years or fined not more than \$75,000.00, or  
17 both. A person knowingly and unlawfully selling cocaine shall be imprisoned  
18 not more than five years or fined not more than \$100,000.00, or both.

19 (2) A person knowingly and unlawfully selling or dispensing cocaine in  
20 an amount consisting of ~~2.5~~ 3.5 grams or more of one or more preparations,

1 compounds, mixtures, or substances containing cocaine shall be imprisoned  
2 not more than 10 years or fined not more than \$250,000.00, or both.

3 (3) A person knowingly and unlawfully selling or dispensing cocaine in  
4 an amount consisting of one ounce or more of one or more preparations,  
5 compounds, mixtures, or substances containing cocaine shall be imprisoned  
6 not more than 20 years or fined not more than \$1,000,000.00, or both.

7 (c)(1) Trafficking. A person knowingly and unlawfully possessing cocaine  
8 in an amount consisting of 150 grams or more of one or more preparations,  
9 compounds, mixtures, or substances containing cocaine with the intent to sell  
10 or dispense the cocaine shall be imprisoned not more than 30 years or fined not  
11 more than \$1,000,000.00, or both. There shall be a permissive inference that a  
12 person who possesses cocaine in an amount consisting of 150 grams or more of  
13 one or more preparations, compounds, mixtures, or substances containing  
14 cocaine intends to sell or dispense the cocaine. The amount of possessed  
15 cocaine under this subdivision to sustain a charge of conspiracy under  
16 13 V.S.A. § 1404 shall be ~~no~~ not less than 400 grams in the aggregate.

17 (2) A person knowingly and unlawfully possessing crack cocaine in an  
18 amount consisting of 60 grams or more of one or more preparations,  
19 compounds, mixtures, or substances containing crack cocaine with the intent to  
20 sell or dispense the crack cocaine shall be imprisoned not more than 30 years  
21 or fined not more than \$1,000,000.00, or both. There shall be a permissive

1 inference that a person who possesses crack cocaine in an amount consisting of  
2 60 grams or more of one or more preparations, compounds, mixtures, or  
3 substances containing crack cocaine intends to sell or dispense the crack  
4 cocaine.

5 Sec. 3. 18 V.S.A. § 4232 is amended to read:

6 § 4232. LSD

7 (a) Possession.

8 (1) A person knowingly and unlawfully possessing lysergic acid  
9 diethylamide shall be imprisoned not more than one year or fined not more  
10 than \$2,000.00, or both.

11 (2) A person knowingly and unlawfully possessing with intent to sell  
12 lysergic acid diethylamide in an amount consisting of 100 milligrams or more  
13 of one or more preparations, compounds, mixtures, or substances containing  
14 lysergic acid diethylamide shall be imprisoned not more than five years or  
15 fined not more than \$25,000.00, or both.

16 (3) ~~A person knowingly and unlawfully possessing lysergic acid~~  
17 ~~diethylamide in an amount consisting of one gram or more of one or more~~  
18 ~~preparations, compounds, mixtures, or substances containing lysergic acid~~  
19 ~~diethylamide shall be imprisoned not more than 10 years or fined not more~~  
20 ~~than \$100,000.00, or both. [Repealed.]~~

1           (4) ~~A person knowingly and unlawfully possessing lysergic acid~~  
2           ~~diethylamide in an amount consisting of 10 grams or more of one or more~~  
3           ~~preparations, compounds, mixtures, or substances containing lysergic acid~~  
4           ~~diethylamide shall be imprisoned not more than 20 years or fined not more~~  
5           ~~than \$500,000.00, or both. [Repealed.]~~

6           (b) Selling or dispensing.

7           (1) A person knowingly and unlawfully dispensing lysergic acid  
8           diethylamide shall be imprisoned not more than three years or fined not more  
9           than \$25,000.00, or both. A person knowingly and unlawfully selling lysergic  
10          acid diethylamide shall be imprisoned not more than five years or fined not  
11          more than \$25,000.00, or both.

12          (2) A person knowingly and unlawfully selling or dispensing lysergic  
13          acid diethylamide in an amount consisting of 100 milligrams or more of one or  
14          more preparations, compounds, mixtures, or substances containing lysergic  
15          acid diethylamide shall be imprisoned not more than 10 years or fined not  
16          more than \$100,000.00, or both.

17          (3) A person knowingly and unlawfully selling or dispensing lysergic  
18          acid diethylamide in an amount consisting of one gram or more of one or more  
19          preparations, compounds, mixtures, or substances containing lysergic acid  
20          diethylamide shall be imprisoned not more than 20 years or fined not more  
21          than \$500,000.00, or both.



1 Sec. 4. 18 V.S.A. § 4233 is amended to read:

2 § 4233. HEROIN

3 (a) Possession.

4 (1) A person knowingly and unlawfully possessing heroin shall be  
5 imprisoned not more than one year or fined not more than \$2,000.00, or both.

6 (2) A person knowingly and unlawfully possessing with intent to sell  
7 heroin in an amount consisting of 200 milligrams one gram or more of one or  
8 more preparations, compounds, mixtures, or substances containing heroin shall  
9 be imprisoned not more than five years or fined not more than \$100,000.00,  
10 or both.

11 (3) ~~A person knowingly and unlawfully possessing heroin in an amount~~  
12 ~~consisting of one gram or more of one or more preparations, compounds,~~  
13 ~~mixtures, or substances containing heroin shall be imprisoned not more than~~  
14 ~~10 years or fined not more than \$250,000.00, or both. [Repealed.]~~

15 (4) ~~A person knowingly and unlawfully possessing heroin in an amount~~  
16 ~~consisting of two grams or more of one or more preparations, compounds,~~  
17 ~~mixtures, or substances containing heroin shall be imprisoned not more than~~  
18 ~~20 years or fined not more than \$1,000,000.00, or both. [Repealed.]~~

19 (b) Selling or dispensing.

20 (1) A person knowingly and unlawfully dispensing heroin shall be  
21 imprisoned not more than three years or fined not more than \$75,000.00, or

1 both. A person knowingly and unlawfully selling heroin shall be imprisoned  
2 not more than five years or fined not more than \$100,000.00, or both.

3 (2) A person knowingly and unlawfully selling or dispensing heroin in  
4 an amount consisting of ~~200 milligrams~~ one gram or more of one or more  
5 preparations, compounds, mixtures, or substances containing heroin shall be  
6 imprisoned not more than 10 years or fined not more than \$250,000.00, or  
7 both.

8 (3) A person knowingly and unlawfully selling or dispensing heroin in  
9 an amount consisting of ~~one gram~~ five grams or more of one or more  
10 preparations, compounds, mixtures, or substances containing heroin shall be  
11 imprisoned not more than 20 years or fined not more than \$1,000,000.00, or  
12 both.

13 (c) Trafficking. A person knowingly and unlawfully possessing heroin in  
14 an amount consisting of ~~3.5~~ 25 grams or more of one or more preparations,  
15 compounds, mixtures, or substances containing heroin with the intent to sell or  
16 dispense the heroin shall be imprisoned not more than 30 years or fined not  
17 more than \$1,000,000.00, or both. There shall be a permissive inference that a  
18 person who possesses heroin in an amount of ~~3.5~~ 25 grams or more of one or  
19 more preparations, compounds, mixtures, or substances containing heroin  
20 intends to sell or dispense the heroin. The amount of possessed heroin under

1 this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall  
2 be ~~no~~ not less than ~~10~~ 75 grams in the aggregate.

3 (d) Transportation into the State. In addition to any other penalties  
4 provided by law, a person knowingly and unlawfully transporting one gram or  
5 more of heroin into Vermont with the intent to sell or dispense the heroin shall  
6 be imprisoned not more than 10 years or fined not more than \$100,000.00,  
7 or both.

8 Sec. 5. 18 V.S.A. § 4234 is amended to read:

9 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

10 (a) Possession.

11 (1) A person knowingly and unlawfully possessing a depressant,  
12 stimulant, or narcotic drug, other than heroin or cocaine, shall be imprisoned  
13 not more than one year or fined not more than \$2,000.00, or both.

14 (2) A person knowingly and unlawfully possessing with intent to sell a  
15 depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting  
16 of 100 times a benchmark unlawful dosage or its equivalent as determined by  
17 the Board of Health by rule shall be imprisoned not more than five years or  
18 fined not more than \$25,000.00, or both.

19 (3) ~~A person knowingly and unlawfully possessing a depressant,~~  
20 ~~stimulant, or narcotic drug, other than heroin or cocaine, consisting of 1,000~~  
21 ~~times a benchmark unlawful dosage or its equivalent as determined by the~~

1 ~~Board of Health by rule shall be imprisoned not more than 10 years or fined~~  
2 ~~not more than \$100,000.00, or both. [Repealed.]~~

3 (4) ~~A person knowingly and unlawfully possessing a depressant,~~  
4 ~~stimulant, or narcotic drug, other than heroin or cocaine, consisting of 10,000~~  
5 ~~times a benchmark unlawful dosage or its equivalent as determined by the~~  
6 ~~Board of Health by rule shall be imprisoned not more than 20 years or fined~~  
7 ~~not more than \$500,000.00, or both. [Repealed.]~~

8 (b) Selling or dispensing.

9 (1) A person knowingly and unlawfully dispensing a depressant,  
10 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be  
11 imprisoned not more than three years or fined not more than \$75,000.00, or  
12 both. A person knowingly and unlawfully selling a depressant, stimulant, or  
13 narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not  
14 more than five years or fined not more than \$25,000.00, or both.

15 (2) A person knowingly and unlawfully selling or dispensing a  
16 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,  
17 consisting of 100 times a benchmark unlawful dosage or its equivalent as  
18 determined by the Board of Health by rule shall be imprisoned not more than  
19 10 years or fined not more than \$100,000.00, or both.

20 (3) A person knowingly and unlawfully selling or dispensing a  
21 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,

1 consisting of 1,000 times a benchmark unlawful dosage or its equivalent as  
2 determined by the Board of Health by rule shall be imprisoned not more than  
3 20 years or fined not more than \$500,000.00, or both.

4 Sec. 6. 18 V.S.A. § 4234a is amended to read:

5 § 4234a. METHAMPHETAMINE

6 (a) Possession.

7 (1) A person knowingly and unlawfully possessing methamphetamine  
8 shall be imprisoned not more than one year or fined not more than \$2,000.00,  
9 or both.

10 (2) A person knowingly and unlawfully possessing with intent to sell  
11 methamphetamine in an amount consisting of 2.5 grams or more of one or  
12 more preparations, compounds, mixtures, or substances containing  
13 methamphetamine shall be imprisoned not more than five years or fined not  
14 more than \$100,000.00, or both.

15 ~~(3) A person knowingly and unlawfully possessing methamphetamine in~~  
16 ~~an amount consisting of 25 grams or more of one or more preparations,~~  
17 ~~compounds, mixtures, or substances containing methamphetamine shall be~~  
18 ~~imprisoned not more than 10 years or fined not more than \$250,000.00, or~~  
19 ~~both. [Repealed.]~~

20 (b) Selling and dispensing.

1           (1) A person knowingly and unlawfully dispensing methamphetamine  
2 shall be imprisoned not more than three years or fined not more than  
3 \$75,000.00, or both. A person knowingly and unlawfully selling  
4 methamphetamine shall be imprisoned not more than five years or fined not  
5 more than \$100,000.00, or both.

6           (2) A person knowingly and unlawfully selling or dispensing  
7 methamphetamine in an amount consisting of 2.5 grams or more of one or  
8 more preparations, compounds, mixtures, or substances containing  
9 methamphetamine shall be imprisoned not more than 10 years or fined not  
10 more than \$250,000.00, or both.

11           (3) A person knowingly and unlawfully selling or dispensing  
12 methamphetamine in an amount consisting of 25 grams or more of one or more  
13 preparations, compounds, mixtures, or substances containing  
14 methamphetamine shall be imprisoned not more than 20 years or fined not  
15 more than \$1,000,000.00, or both.

16           (c) Trafficking. A person knowingly and unlawfully possessing  
17 methamphetamine in an amount consisting of 300 grams or more of one or  
18 more preparations, compounds, mixtures, or substances containing  
19 methamphetamine with the intent to sell or dispense the methamphetamine  
20 shall be imprisoned not more than 30 years or fined not more than  
21 \$1,000,000.00, or both. There shall be a permissive inference that a person

1 who possesses methamphetamine in an amount consisting of 300 grams or  
2 more of one or more preparations, compounds, mixtures, or substances  
3 containing methamphetamine intends to sell or dispense the methamphetamine.

4 The amount of possessed methamphetamine under this subsection to sustain a  
5 charge of conspiracy under 13 V.S.A. § 1404 shall be ~~no~~ not less than 800  
6 grams in the aggregate.

7 Sec. 7. 18 V.S.A. § 4235 is amended to read:

8 § 4235. HALLUCINOGENIC DRUGS

9 (a) “Dose” of a hallucinogenic drug means that minimum amount of a  
10 hallucinogenic drug, not commonly used for therapeutic purposes, which  
11 causes a substantial hallucinogenic effect. The Board of Health shall adopt  
12 rules which establish doses for hallucinogenic drugs. The Board may  
13 incorporate, where applicable, dosage calculations or schedules, whether  
14 described as “dosage equivalencies” or otherwise, established by the federal  
15 government.

16 (b) Possession.

17 (1) A person knowingly and unlawfully possessing a hallucinogenic  
18 drug, other than lysergic acid diethylamide, shall be imprisoned not more than  
19 one year or fined not more than \$2,000.00, or both.

20 (2) A person knowingly and unlawfully possessing with intent to sell 10  
21 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide,

1 shall be imprisoned not more than five years or fined not more than  
2 \$25,000.00, or both.

3 (3) ~~A person knowingly and unlawfully possessing 100 or more doses of~~  
4 ~~a hallucinogenic drug, other than lysergic acid diethylamide, shall be~~  
5 ~~imprisoned not more than 10 years or fined not more than \$100,000.00,~~  
6 ~~or both. [Repealed.]~~

7 (4) ~~A person knowingly and unlawfully possessing 1,000 or more doses~~  
8 ~~of a hallucinogenic drug, other than lysergic acid diethylamide, shall be~~  
9 ~~imprisoned not more than 15 years or fined not more than \$500,000.00,~~  
10 ~~or both. [Repealed.]~~

11 (c) Selling or dispensing.

12 (1) A person knowingly and unlawfully dispensing a hallucinogenic  
13 drug, other than lysergic acid diethylamide, shall be imprisoned not more than  
14 three years or fined not more than \$25,000.00, or both. A person knowingly  
15 and unlawfully selling a hallucinogenic drug, other than lysergic acid  
16 diethylamide, shall be imprisoned not more than five years or fined not more  
17 than \$25,000.00, or both.

18 (2) A person knowingly and unlawfully selling or dispensing 10 or more  
19 doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be  
20 imprisoned not more than 10 years or fined not more than \$100,000.00,  
21 or both.



1           (3) A person knowingly and unlawfully selling or dispensing 100 or  
2 more doses of a hallucinogenic drug, other than lysergic acid diethylamide,  
3 shall be imprisoned not more than 15 years or fined not more than  
4 \$500,000.00, or both.

5 Sec. 8. 18 V.S.A. § 4235a is amended to read:

6 § 4235a. ECSTASY

7           (a) Possession.

8           (1) A person knowingly and unlawfully possessing Ecstasy shall be  
9 imprisoned not more than one year or fined not more than \$2,000.00, or both.

10           (2) A person knowingly and unlawfully possessing with intent to sell  
11 Ecstasy in an amount consisting of two grams or more of one or more  
12 preparations, compounds, mixtures, or substances containing Ecstasy shall be  
13 imprisoned not more than five years or fined not more than \$25,000.00,  
14 or both.

15           ~~(3) A person knowingly and unlawfully possessing Ecstasy in an~~  
16 ~~amount consisting of 20 grams or more of one or more preparations,~~  
17 ~~compounds, mixtures, or substances containing Ecstasy shall be imprisoned~~  
18 ~~not more than 10 years or fined not more than \$100,000.00, or both.~~

19 [Repealed.]

20           ~~(4) A person knowingly and unlawfully possessing Ecstasy in an~~  
21 ~~amount consisting of seven ounces or more of one or more preparations,~~

1 ~~compounds, mixtures, or substances containing Ecstasy shall be imprisoned~~  
2 ~~not more than 20 years or fined not more than \$500,000.00, or both~~

3 [Repealed.]

4 (b) Selling or dispensing.

5 (1) A person knowingly and unlawfully dispensing Ecstasy shall be  
6 imprisoned not more than three years or fined not more than \$25,000.00, or  
7 both. A person knowingly and unlawfully selling Ecstasy shall be imprisoned  
8 not more than five years or fined not more than \$25,000.00, or both.

9 (2) A person knowingly and unlawfully selling or dispensing Ecstasy in  
10 an amount consisting of two grams or more of one or more preparations,  
11 compounds, mixtures, or substances containing Ecstasy shall be imprisoned  
12 not more than 10 years or fined not more than \$100,000.00, or both.

13 (3) A person knowingly and unlawfully selling or dispensing Ecstasy in  
14 an amount consisting of 20 grams or more of one or more preparations,  
15 compounds, mixtures, or substances containing Ecstasy shall be imprisoned  
16 not more than 20 years or fined not more than \$500,000.00, or both.

17 Sec. 9. EFFECTIVE DATES

18 This act shall take effect on July 1, 2018, except that Sec. 1 shall take effect  
19 on July 2, 2018.

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(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Representative \_\_\_\_\_

FOR THE COMMITTEE