

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 22
3 entitled “An act relating to increased penalties for possession, sale, and
4 dispensation of fentanyl” respectfully reports that it has considered the same
5 and recommends that the House propose to the Senate that the bill be amended
6 by striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 Sec. 1. LEGISLATIVE FINDINGS

9 The General Assembly finds:

10 (1) According to Michael Botticelli, former Director of the Office of
11 National Drug Control Policy, the National Drug Control Strategy
12 recommends treating “addiction as a public health issue, not a crime.” Further,
13 the strategy “rejects the notion that we can arrest and incarcerate our way out
14 of the nation’s drug problem.”

15 (2) Vermont Chief Justice Paul Reiber has declared that “the classic
16 approach of ‘tough on crime’ is not working in [the] area of drug policy” and
17 that treatment-based models are proving to be a more effective approach for
18 dealing with crime associated with substance abuse.

19 (3) A felony conviction record is a significant impediment to gaining
20 and maintaining employment and housing, yet we know that stable

1 employment and housing are an essential element to recovery from substance
2 abuse and desistance of criminal activity that often accompanies addiction.

3 (4) In a 2014 study by the PEW Research Center, 67 percent of people
4 polled said government should focus more on providing treatment to people
5 who use illicit drugs and less on punishment. The Center later reported that
6 states are leading the way in reforming drug laws to reflect this opinion: State-
7 level actions have included lowering penalties for possession and use of illegal
8 drugs, shortening mandatory minimums or curbing their applicability,
9 removing automatic sentence enhancements, and establishing or extending the
10 jurisdiction of drug courts and other alternatives to the regular criminal justice
11 system.

12 (5) Vermont must look at alternative approaches to the traditional
13 criminal justice model for addressing low-level illicit drug use if it is going to
14 reduce the effects of addiction and addiction-related crime in this State.

15 Sec. 2. STUDY

16 (a) The Office of Legislative Council shall examine the issue of a public
17 health approach to low-level possession and use of illicit and regulated drugs,
18 including fentanyl, in Vermont as an alternative to the traditional criminal
19 justice model, looking to trends both nationally and internationally, with a goal
20 of providing policymakers a range of approaches to consider during the 2018
21 legislative session.

1 (C) The electronic registry system shall operate in real time to enable
2 communication among in-state users and users of similar systems in
3 neighboring states.

4 (D) The State shall use the National Precursor Log Exchange
5 (NPLEx) online portal or its equivalent to host Vermont’s electronic registry
6 system.

7 (2)(A) Prior to completing a sale under subsection (b) of this section, a
8 retail establishment shall require the person purchasing the drug product to
9 present a current, valid government-issued identification document. The retail
10 establishment shall record in the electronic registry system:

11 (i) the name and address of the purchaser;

12 (ii) the name of the drug product and quantity of ephedrine,
13 pseudoephedrine, and phenylpropanolamine base sold in grams;

14 (iii) the date and time of purchase;

15 (iv) the form of identification presented, the issuing government
16 entity, and the corresponding identification number; and

17 (v) the name of the person selling or furnishing the drug product.

18 (B)(i) If the retail establishment experiences an electronic or
19 mechanical failure of the electronic registry system and is unable to comply
20 with the electronic recording requirement, the retail establishment shall

1 maintain a written log or an alternative electronic record-keeping mechanism
2 until the retail establishment is able to comply fully with this subsection (c).

3 (ii) If the region of the State where the retail establishment is
4 located does not have broadband Internet access, the retail establishment shall
5 maintain a written log or an alternative electronic record-keeping mechanism
6 until broadband Internet access becomes accessible in that region. At that
7 time, the retail establishment shall come into compliance with this
8 subsection (c).

9 (C) A retail establishment shall maintain all records of drug product
10 purchases made pursuant to this subsection (c) for a minimum of two years.

11 (3) A retail establishment shall display a sign at the register provided by
12 NPLEx or its equivalent to notify purchasers of drug products containing
13 ephedrine, pseudoephedrine, or phenylpropanolamine base that:

14 (A) the purchase of the drug product or products shall result in the
15 purchaser's identity being listed on a national database; and

16 (B) the purchaser has the right to request the transaction number for
17 any purchase that was denied pursuant to this subsection (c).

18 (4) Except as provided in subdivision (5) of this subsection (c), a person
19 or retail establishment that violates this subsection shall:

20 (A) for a first violation be assessed a civil penalty of not more than
21 \$100.00; and

1 (B) for a second or subsequent violation be assessed a civil penalty of
2 not more than \$500.00.

3 (d) This section shall not apply to a manufacturer ~~which~~ that has obtained
4 an exemption from the Attorney General of the United States under Section
5 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

6 (e) As used in this section:

7 (1) “Distributor” means a person, other than a manufacturer or
8 wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug
9 product to any person who is not the ultimate user or consumer of the product.

10 (2) “Knowingly” means having actual knowledge of the relevant facts.

11 (3) “Manufacturer” means a person who produces, compounds,
12 packages, or in any manner initially prepares a drug product for sale or use.

13 (4) “Wholesaler” means a person, other than a manufacturer, who sells,
14 transfers, or in any manner furnishes a drug product to any other person for the
15 purpose of being resold.

16 Sec. 5. EFFECTIVE DATES

17 This section and Sec. 3 (ephedrine and pseudoephedrine) shall take effect
18 on passage. The remaining sections shall take effect on July 1, 2017.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE