

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 170
3 entitled “An act relating to possession and cultivation of marijuana by a person
4 21 years of age or older” respectfully reports that it has considered the same
5 and recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

8 It is the intent of the General Assembly to eliminate all penalties for
9 possession of one ounce or less of marijuana for a person who is 21 years of
10 age or older while retaining civil and criminal penalties for possession of larger
11 amounts of marijuana and criminal penalties for unauthorized dispensing or
12 sale of marijuana. This act also retains civil penalties for possession of
13 marijuana by a person under 21 years of age, which are the same as for
14 possession of alcohol by a person under 21 years of age.

15 Sec. 2. 18 V.S.A. § 4201 is amended to read:

16 § 4201. DEFINITIONS

17 As used in this chapter, unless the context otherwise requires:

18 * * *

19 (15)(A) “Marijuana” means ~~any plant material of the genus cannabis or~~
20 ~~any preparation, compound, or mixture thereof except:~~

21 ~~(A) sterilized seeds of the plant;~~

1 (44) “Mature marijuana plant” means a female marijuana plant that has
2 flowered and that has buds that may be observed by visual examination.

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

4 § 4230. MARIJUANA

5 (a) Possession and cultivation.

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

15 (B) A person convicted of a second or subsequent offense of
16 knowingly and unlawfully possessing more than ~~one ounce~~ two ounces of
17 marijuana or more than ~~five~~ 10 grams of hashish or cultivating more than three
18 mature marijuana plants or six immature marijuana plants shall be imprisoned
19 not more than two years or fined not more than \$2,000.00, or both.

20 (C) Upon an adjudication of guilt for a first or second offense under
21 this subdivision, the court may defer sentencing as provided in 13 V.S.A.

1 § 7041 except that the court may in its discretion defer sentence without the
2 filing of a presentence investigation report and except that sentence may be
3 imposed at any time within two years from and after the date of entry of
4 deferment. The court may, prior to sentencing, order that the defendant submit
5 to a drug assessment screening which may be considered at sentencing in the
6 same manner as a presentence report.

7 ~~(2) A person knowingly and unlawfully possessing two ounces of~~
8 ~~marijuana or 10 grams of hashish or knowingly and unlawfully cultivating~~
9 ~~more than three plants of marijuana shall be imprisoned not more than three~~
10 ~~years or fined not more than \$10,000.00, or both.~~

11 ~~(3)~~ A person knowingly and unlawfully possessing more than one pound
12 ~~or more~~ of marijuana or more than 2.8 ounces ~~or more~~ of hashish or knowingly
13 and unlawfully cultivating more than ~~10 plants of~~ six mature marijuana plants
14 or 12 immature marijuana plants shall be imprisoned not more than ~~five~~ three
15 years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

16 ~~(4)~~(3) A person knowingly and unlawfully possessing more than
17 10 pounds ~~or more~~ of marijuana or more than one pound ~~or more~~ of hashish or
18 knowingly and unlawfully cultivating more than ~~25 plants of~~ 12 mature
19 marijuana plants or 24 immature marijuana plants shall be imprisoned not
20 more than 15 years or fined not more than \$500,000.00, or both.

1 (C) more than two mature marijuana plants and four immature
2 marijuana plants, but not more than three mature marijuana plants or six
3 immature marijuana plants.

4 (2) A person who violates subdivision (1) of this subsection shall be
5 assessed a civil penalty as follows:

6 (1) of not more than \$200.00 for a first offense;

7 ~~(2) not more than \$300.00 for a second offense;~~

8 ~~(3) not more than \$500.00 for a third or subsequent offense.~~

9 ~~(b)(1) Except as otherwise provided in this section, a person 21 years of age~~
10 ~~or older who possesses one ounce or less of marijuana or five grams or less of~~
11 ~~hashish or who possesses paraphernalia for marijuana use and shall not be~~
12 penalized or sanctioned in any other manner by the State or any of its political
13 subdivisions or denied any right or privilege under State law.

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

16 (b) Second or subsequent violations of subdivision (1) of subsection (a)
17 shall be punished in accordance with subdivision 4230(a)(1) of this title.

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

1 concerning the operation of vehicles of any kind while under the influence of
2 marijuana.

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

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

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

17 (e)(1) A law enforcement officer is authorized to detain a person if:

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

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

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

8 (f) Fifty percent of the civil penalties imposed by the Judicial Bureau for
9 violations of this section shall be deposited in the Drug Task Force Special
10 Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7,
11 subchapter 5, and available to the Department of Public Safety for the funding
12 of law enforcement officers on the Drug Task Force, except for a \$12.50
13 administrative charge for each violation which shall be deposited in the Court
14 Technology Special Fund, in accordance with 13 V.S.A. § 7252. The
15 remaining 50 percent shall be deposited in the Youth Substance Abuse Safety
16 Program Special Fund, hereby created to be managed pursuant to 32 V.S.A.
17 chapter 7, subchapter 5, and available to the Court Diversion Program for
18 funding of the Youth Substance Abuse Safety Program as required by section
19 4230b of this title.

1 Sec. 5. 18 V.S.A. § 4230b is amended to read:

2 § 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS
3 OF AGE; CIVIL VIOLATION

4 (a) Offense. A person under 21 years of age who knowingly and
5 unlawfully possesses ~~one ounce~~ two ounces or less of marijuana or ~~five~~ 10
6 grams or less of hashish or three mature marijuana plants or fewer or six
7 immature marijuana plants or fewer commits a civil violation and shall be
8 referred to the Court Diversion Program for the purpose of enrollment in the
9 Youth Substance Abuse Safety Program. A person who fails to complete the
10 program successfully shall be subject to:

11 (1) a civil penalty of \$300.00 and suspension of the person's operator's
12 license and privilege to operate a motor vehicle for a period of 30 days, for a
13 first offense; and

14 (2) a civil penalty of not more than \$600.00 and suspension of the
15 person's operator's license and privilege to operate a motor vehicle for a
16 period of 90 days, for a second or subsequent offense.

17 * * *

18 Sec. 6. REPEAL

19 18 V.S.A. § 4230d (Marijuana possession by a person under 16 years of
20 age; delinquency) is repealed.

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

2 § 4230e. POSSESSION OF MARIJUANA BY A PERSON 21 YEARS OF
3 AGE OR OLDER

4 (a)(1) Except as otherwise provided in this title, a person 21 years of age or
5 older who possesses one ounce or less of marijuana or five grams or less of
6 hashish and two mature marijuana plants or fewer or four immature marijuana
7 plants or fewer shall not be penalized or sanctioned in any manner by the State
8 or any of its political subdivisions or denied any right or privilege under
9 State law.

10 (2) The one-ounce limit of marijuana that may be possessed by a person
11 21 years of age or older shall not include marijuana cultivated, harvested, and
12 stored in accordance with section 4230f of this title.

13 (b) A person shall not consume marijuana or hashish in a public place.
14 “Public place” means any street, alley, park, sidewalk, public building other
15 than individual dwellings, any place of public accommodation as defined in
16 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco
17 product is prohibited pursuant to section 1421 of this title or chapter 37 of this
18 title. A person who violates this subsection shall be assessed a civil penalty as
19 follows:

20 (1) not more than \$100.00 for a first offense;

21 (2) not more than \$200.00 for a second offense; and

1 (3) not more than \$500.00 for a third or subsequent offense.

2 Sec. 8. 18 V.S.A. § 4230f is added to read:

3 § 4230f. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF
4 AGE OR OLDER

5 (a)(1) Except as otherwise provided in this section, a person 21 years of age
6 or older who cultivates no more than two mature marijuana plants and four
7 immature marijuana plants shall not be penalized or sanctioned in any manner
8 by the State or any of its political subdivisions or denied any right or privilege
9 under State law.

10 (2) Each dwelling unit shall be limited to two mature marijuana plants
11 and four immature marijuana plants regardless of how many persons 21 years
12 of age or older reside in the dwelling unit. As used in this section, “dwelling
13 unit” means a building or the part of a building that is used as a primary home,
14 residence, or sleeping place by one or more persons who maintain a household.

15 (3) Any marijuana harvested from the plants allowed pursuant to this
16 subsection shall not count toward the one-ounce possession limit in section
17 4229a of this title provided it is stored in an indoor facility on the property
18 where the marijuana was cultivated and reasonable precautions are taken to
19 prevent unauthorized access to the marijuana.

20 (4) Cultivation in excess of the limits provided in this subsection shall
21 be punished in accordance with sections 4230 and 4230a of this title.

1 (b)(1) Personal cultivation of marijuana only shall occur:

2 (A) on property lawfully in possession of the cultivator or with the
3 consent of the person in lawful possession of the property; and

4 (B) in an enclosure that is screened from public view and reasonable
5 precautions are taken to prevent unauthorized access to the marijuana.

6 (2) A person who violates this subsection shall be assessed a civil
7 penalty as follows:

8 (A) not more than \$100.00 for a first offense;

9 (B) not more than \$200.00 for a second offense; and

10 (C) not more than \$500.00 for a third or subsequent offense.

11 Sec. 9. 18 V.S.A. § 4230g is added to read:

12 § 4230g. FURNISHING MARIJUANA TO A PERSON UNDER

13 21 YEARS OF AGE; CRIMINAL OFFENSE

14 (a) No person shall:

15 (1) furnish marijuana to a person under 21 years of age; or

16 (2) knowingly enable the consumption of marijuana by a person under
17 21 years of age.

18 (b) As used in this section, “enable the consumption of marijuana” means
19 creating a direct and immediate opportunity for a person to consume
20 marijuana.

1 (c) Except as provided in subsection (d) of this section, a person who
2 violates subsection (a) of this section shall be imprisoned not more than two
3 years or fined not more than \$2,000.00, or both.

4 (d) A person who violates subsection (a) of this section, where the person
5 under 21 years of age, while operating a motor vehicle on a public highway,
6 causes death or serious bodily injury to himself or herself or to another person
7 as a result of the violation, shall be imprisoned not more than five years or
8 fined not more than \$10,000.00, or both.

9 (e) This section shall not apply to:

10 (1) A person under 21 years of age who furnishes marijuana to a person
11 under 21 years of age or who knowingly enables the consumption of marijuana
12 by a person under 21 years of age. Possession of an ounce or less of marijuana
13 by a person under 21 years of age shall be punished in accordance with
14 sections 4230b–4230d of this title and dispensing or selling marijuana shall be
15 punished in accordance with sections 4230 and 4237 of this title.

16 (2) A dispensary that lawfully provides marijuana to a registered patient
17 or caregiver pursuant to chapter 86 of this title.

1 Sec. 10. 18 V.S.A. § 4230h is added to read:

2 § 4230h. FURNISHING MARIJUANA TO A PERSON UNDER
3 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

4 (a) A spouse, child, guardian, employer, or other person who is injured in
5 person, property, or means of support by a person under 21 years of age who is
6 impaired by marijuana, or in consequence of the impairment by marijuana of
7 any person under 21 years of age, shall have a right of action in his or her own
8 name, jointly or severally, against any person or persons who have caused in
9 whole or in part such impairment by furnishing marijuana to a person under 21
10 years of age.

11 (b) Upon the death of either party, the action and right of action shall
12 survive to or against the party's executor or administrator. The party injured or
13 his or her legal representatives may bring either a joint action against the
14 impaired person under 21 years of age and the person or persons who furnished
15 the marijuana, or a separate action against either or any of them.

16 (c) An action to recover for damages under this section shall be
17 commenced within two years after the cause of action accrues, and not after.

18 (d) In an action brought under this section, evidence of responsible actions
19 taken or not taken is admissible if otherwise relevant.

1 (e) A defendant in an action brought under this section has a right of
2 contribution from any other responsible person or persons, which may be
3 enforced in a separate action brought for that purpose.

4 (f) A person who knowingly furnishes marijuana to a person under 21 years
5 of age may be held liable under this section if the social host knew, or a
6 reasonable person in the same circumstances would have known, that the
7 person who received the marijuana was under 21 years of age.

8 Sec. 11. 18 V.S.A. § 4230i is added to read:

9 § 4230i. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE

10 PROHIBITED

11 (a) No person shall manufacture concentrated marijuana by chemical
12 extraction or chemical synthesis using butane or hexane unless authorized as a
13 dispensary pursuant to a registration issued by the Department of Public Safety
14 pursuant to chapter 86 of this title.

15 (b) A person who violates subsection (a) of this section shall be imprisoned
16 not more than two years or fined not more than \$2,000.00, or both. A person
17 who violates subsection (a) of this section and causes serious bodily injury to
18 another person shall be imprisoned not more than five years or fined not more
19 than \$5,000.00, or both.

1 Sec. 12. 18 V.S.A. § 4476 is amended to read:

2 § 4476. OFFENSES AND PENALTIES

3 (a) ~~No person shall sell, possess with intent to sell, or manufacture with~~
4 ~~intent to sell, drug paraphernalia, knowing, or under circumstances where one~~
5 ~~reasonably should know, that it will be used to plant, propagate, cultivate,~~
6 ~~grow, harvest, manufacture, compound, convert, produce, process, prepare,~~
7 ~~test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or~~
8 ~~otherwise introduce into the human body a regulated drug in violation of~~
9 ~~chapter 84 of this title. Whoever violates any provision of this section shall be~~
10 ~~punished by imprisonment for not more than one year, or by a fine of not more~~
11 ~~than \$1,000.00, or both.~~

12 (b) ~~Any~~ A person who ~~violates subsection (a) of this section by selling~~ sells
13 drug paraphernalia to a person under 18 years of age shall be imprisoned for
14 not more than two years, or fined not more than \$2,000.00, or both.

15 (e)(b) The distribution and possession of needles and syringes as part of an
16 organized community-based needle exchange program shall not be a violation
17 of this section or of chapter 84 of this title.

18 Sec. 13. EFFECTIVE DATE

19 This act shall take effect on July 1, 2017.

20

21

1 (Committee vote: _____)

2

3

Representative _____

4

FOR THE COMMITTEE