

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred House Bill No. 511
3 entitled “An act relating to highway safety” respectfully reports that it has
4 considered the same and recommends that the Senate propose to the House that
5 the bill be amended by striking out all after the enacting clause and inserting in
6 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 and two mature and four
10 immature marijuana plants for a person who is 21 years of age or older while
11 retaining criminal penalties for possession, dispensing, and sale of larger
12 amounts of marijuana.

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

14 § 4201. DEFINITIONS

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

16 * * *

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

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

20 (B) ~~fiber produced from the stalks; or~~

1 ~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562~~ all parts of
2 the plant Cannabis sativa L., except as provided by subdivision (B) of this
3 subdivision (15), whether growing or harvested, and includes:

4 (i) the seeds of the plant;

5 (ii) the resin extracted from any part of the plant; and

6 (iii) any compound, manufacture, salt, derivative, mixture, or
7 preparation of the plant, its seeds, or resin.

8 (B) “Marijuana” does not include:

9 (i) the mature stalks of the plant and fiber produced from the
10 stalks;

11 (ii) oil or cake made from the seeds of the plant;

12 (iii) any compound, manufacture, salt, derivative, mixture, or
13 preparation of the mature stalks, fiber, oil, or cake;

14 (iv) the sterilized seed of the plant that is incapable of
15 germination; or

16 (v) hemp or hemp products, as defined in 6 V.S.A. § 562.

17 * * *

18 (43) “Immature marijuana plant” means a female marijuana plant that
19 has not flowered and that does not have buds that may be observed by visual
20 examination.

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 of marijuana or more than five grams of hashish or cultivate more than
8 two mature marijuana plants or four immature marijuana plants. For a first
9 offense under this subdivision (A), a person shall be provided the opportunity
10 to participate in the Court Diversion Program unless the prosecutor states on
11 the record why a referral to the Court Diversion Program would not serve the
12 ends of justice. A person convicted of a first offense under this subdivision
13 shall be imprisoned not more than six months or fined not more than \$500.00,
14 or both.

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

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

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

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

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

12 * * *

13 Sec. 4. 18 V.S.A. § 4230a is amended to read:

14 § 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE
15 OR OLDER; CIVIL VIOLATION

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

19 ~~(1) not more than \$200.00 for a first offense;~~

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

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

1 ~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of
2 age or older who possesses one ounce or less of marijuana or five grams or less
3 of hashish and two mature marijuana plants or fewer or four immature
4 marijuana plants or fewer or who possesses paraphernalia for marijuana use
5 shall not be penalized or sanctioned in any manner by the State or any of its
6 political subdivisions or denied any right or privilege under State law. The
7 one-ounce limit of marijuana or five grams of hashish that may be possessed
8 by a person 21 years of age or older shall not include marijuana cultivated,
9 harvested, and stored in accordance with section 4230e of this title.

10 ~~(2)(A)~~ ~~A violation of this section shall not result in the creation of a~~
11 ~~criminal history record of any kind~~ A person shall not consume marijuana in a
12 public place. “Public place” means any street, alley, park, sidewalk, public
13 building other than individual dwellings, any place of public accommodation
14 as defined in 9 V.S.A. § 4501, and any place where the use or possession of a
15 lighted tobacco product, tobacco product, or tobacco substitute as defined in
16 7 V.S.A. § 1001 is prohibited by law.

17 (B) A person who violates this subdivision (a)(2) shall be assessed a
18 civil penalty as follows:

19 (i) not more than \$100.00 for a first offense;

20 (ii) not more than \$200.00 for a second offense; and

21 (iii) not more than \$500.00 for a third or subsequent offense.

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

6 ~~(2)(b)(1) This section is not intended to affect the search and seizure~~
7 ~~laws afforded to duly authorized law enforcement officers under the laws of~~
8 ~~this State. Marijuana possessed or consumed in violation of State law is~~
9 ~~contraband pursuant to section 4242 subsection 4242(d) of this title and subject~~
10 ~~to seizure and forfeiture unless possessed in compliance with chapter 86 of this~~
11 ~~title (therapeutic use of cannabis).~~

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

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

1 (2) This section does not:

2 (A) exempt a person from arrest, citation, or prosecution for being
3 under the influence of marijuana while operating a vehicle of any kind or for
4 consuming marijuana while operating a motor vehicle;

5 (B) repeal or modify existing laws or policies concerning the
6 operation of vehicles of any kind while under the influence of marijuana or for
7 consuming marijuana while operating a motor vehicle;

8 (C) limit the authority of primary and secondary schools to impose
9 administrative penalties for the possession of marijuana on school property;

10 (D) prohibit a municipality from adopting a civil ordinance to
11 provide additional penalties for consumption of marijuana in a public place;

12 (E) prohibit a landlord from banning possession or use of marijuana
13 in a lease agreement; or

14 (F) allow an inmate of a correctional facility to possess or use
15 marijuana or to limit the authority of law enforcement, the courts, the
16 Department of Corrections, or the Parole Board to impose penalties on
17 offenders who use marijuana in violation of a court order, conditions of
18 furlough, parole, or rules of a correctional facility.

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

20 (A) the officer has reasonable grounds to believe the person has
21 violated subsection (a) of this section; and

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

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

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

1 (e) Nothing in this section shall be construed to do any of the following:

2 (1) require an employer to permit or accommodate the use,

3 consumption, possession, transfer, display, transportation, sale, or growing of
4 marijuana in the workplace;

5 (2) prevent an employer from adopting a policy that prohibits the use of
6 marijuana in the workplace;

7 (3) create a cause of action against an employer that discharges an
8 employee for violating a policy that restricts or prohibits the use of marijuana
9 by employees; or

10 (4) prevent an employer from prohibiting or otherwise regulating the
11 use, consumption, possession, transfer, display, transportation, sale, or growing
12 of marijuana on the employer's premises.

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

14 § 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS
15 OF AGE; CIVIL VIOLATION

16 (a) Offense. A person under 21 years of age who knowingly and
17 unlawfully possesses one ounce or less of marijuana or five grams or less of
18 hashish or two mature marijuana plants or fewer or four immature marijuana
19 plants or fewer commits a civil violation and shall be referred to the Court
20 Diversion Program for the purpose of enrollment in the Youth Substance

1 Abuse Safety Program. A person who fails to complete the program
2 successfully shall be subject to:

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

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

9 * * *

10 Sec. 6. REPEAL

11 18 V.S.A. § 4230d (marijuana possession by a person under 16 years of
12 age; delinquency) is repealed.

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

14 § 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF
15 AGE OR OLDER

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

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

6 (3) Any marijuana harvested from the plants allowed pursuant to this
7 subsection shall not count toward the one-ounce possession limit in section
8 4230a of this title provided it is stored in an indoor facility on the property
9 where the marijuana was cultivated and reasonable precautions are taken to
10 prevent unauthorized access to the marijuana.

11 (4) Cultivation in excess of the limits provided in this subsection shall
12 be punished in accordance with section 4230 of this title.

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

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

16 (B) in an enclosure that is screened from public view and is secure so
17 that access is limited to the cultivator and persons 21 years of age or older who
18 have permission from the cultivator.

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

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

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

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

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

4 § 4230f. DISPENSING MARIJUANA TO A PERSON UNDER

5 21 YEARS OF AGE; CRIMINAL OFFENSE

6 (a) No person shall:

7 (1) dispense marijuana to a person under 21 years of age; or

8 (2) knowingly enable the consumption of marijuana by a person under
9 21 years of age.

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

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

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

1 (e)(1) Subsections (a)–(d) of this section shall not apply to a person under
2 21 years of age who dispenses marijuana to a person under 21 years of age or
3 who knowingly enables the consumption of marijuana by a person under
4 21 years of age.

5 (2) A person who is 18, 19, or 20 years of age who knowingly dispenses
6 marijuana to a person who is 18, 19, or 20 years of age commits a civil
7 violation and shall be referred to the Court Diversion Program for the purpose
8 of enrollment in the Youth Substance Abuse Safety Program in accordance
9 with the provisions of section 4230b of this title and shall be subject to the
10 penalties in that section for failure to complete the program successfully.

11 (3) A person 18, 19, or 20 years of age of who knowingly dispenses to a
12 person under 18 years of age who is at least three years that person's junior
13 shall be sentenced to a term of imprisonment of not more than five years in
14 accordance with section 4237 of this title.

15 (4) A person who is 19 years of age who knowingly dispenses to a
16 person 17 years of age or a person who is 18 years of age who knowingly
17 dispenses marijuana to a person who is 16 or 17 years of age commits a
18 misdemeanor crime and shall be fined not more than \$500.00.

19 (5) A person who is under 18 years of age who knowingly dispenses
20 marijuana to another person who is under 18 years of age commits a delinquent
21 act and shall be subject to 33 V.S.A. chapter 52.

1 (f) This section shall not apply to a dispensary that lawfully provides
2 marijuana to a registered patient or caregiver pursuant to chapter 86 of
3 this title.

4 (g) The provisions of this section do not limit or restrict the prosecution for
5 other offenses arising out of the same conduct, nor shall they limit or restrict
6 defenses under common law.

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

8 § 4230g. DISPENSING MARIJUANA TO A PERSON UNDER
9 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

10 (a) A spouse, child, guardian, employer, or other person who is injured in
11 person, property, or means of support by a person under 21 years of age who is
12 impaired by marijuana, or in consequence of the impairment by marijuana of
13 any person under 21 years of age, shall have a right of action in his or her own
14 name, jointly or severally, against any person or persons who have caused in
15 whole or in part such impairment by knowingly dispensing marijuana to a
16 person under 21 years of age or enabling the consumption of marijuana by a
17 person under 21 years of age.

18 (b) Upon the death of either party, the action and right of action shall
19 survive to or against the party's executor or administrator. The party injured or
20 his or her legal representatives may bring either a joint action against the
21 impaired person under 21 years of age and the person or persons who

1 knowingly dispensed the marijuana or enabled the consumption of the
2 marijuana, or a separate action against either or any of them.

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

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

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

10 (f) A person who knowingly dispenses marijuana to a person under 21
11 years of age or who enables consumption of marijuana by a person under 21
12 years of age may be held liable under this section if the person knew, or a
13 reasonable person in the same circumstances would have known, that the
14 person who received the marijuana was under 21 years of age.

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

16 § 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE

17 PROHIBITED

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

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

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

7 § 4230i. EXCEPTIONS

8 (a) A person who is convicted of a felony for selling marijuana in violation
9 of section 4230 of this title or selling a regulated drug to minors or on school
10 grounds in violation of section 4237 of this title for an offense that occurred on
11 or after July 1, 2018 and who possesses one ounce or less of marijuana or five
12 grams or less of hashish commits a civil violation and shall be assessed a civil
13 penalty as follows:

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

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

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

17 (b) A person who is convicted of a felony for selling marijuana in violation
18 of section 4230 of this title or selling a regulated drug to minors or on school
19 grounds in violation of section 4237 of this title for an offense that occurred on
20 or after July 1, 2018 and who possesses any of the following commits a

1 misdemeanor and is subject to imprisonment of not more than one year or a
2 fine of not more than \$1,000.00, or both:

3 (1) more than one ounce, but not more than two ounces of marijuana;

4 (2) more than five grams, but not more than 10 grams of hashish; or

5 (3) not more than six mature marijuana plants and 12 immature
6 marijuana plants.

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

8 § 4476. OFFENSES AND PENALTIES

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

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

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

4 Sec. 13. 23 V.S.A. § 1134 is amended to read:

5 § 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR
6 POSSESSION OF ALCOHOL OR MARIJUANA

7 (a) A person shall not consume an alcoholic beverage ~~alcoholic beverages beverage~~ or
8 marijuana while operating a motor vehicle on a public highway. As used in
9 this subsection, the prohibition on consumption of marijuana by the operator
10 shall extend to the operator’s consumption of secondhand marijuana smoke in
11 the vehicle as a result of another person’s consumption of marijuana. As used
12 in this section, “alcoholic beverages” shall have the same meaning as
13 “intoxicating liquor” as defined in section 1200 of this title.

14 (b) A person operating a motor vehicle on a public highway shall not
15 possess any open container which contains an alcoholic beverage ~~alcoholic beverages beverage~~ or
16 marijuana in the passenger area of the motor vehicle.

17 (c) As used in this section:

18 (1) “Alcoholic beverage” shall have the same meaning as “intoxicating
19 liquor” as defined in section 1200 of this title.

20 (2) “passenger Passenger area” shall mean the area designed to seat the
21 operator and passengers while the motor vehicle is in operation and any area

1 that is readily accessible to the operator or passengers while in their seating
2 positions, including the glove compartment, unless the glove compartment is
3 locked. In a motor vehicle that is not equipped with a trunk, the term shall
4 exclude the area behind the last upright seat or any area not normally occupied
5 by the operator or passengers.

6 (d) A person who violates subsection (a) of this section shall be assessed a
7 civil penalty of not more than \$500.00. A person who ~~violates~~ possesses an
8 open container which contains an alcoholic beverage in violation of subsection
9 (b) of this section shall be assessed a civil penalty of not more than \$25.00. A
10 person who possesses an open container which contains marijuana in violation
11 of subsection (b) of this section shall be assessed a civil penalty of not more
12 than \$200.00. A person adjudicated and assessed a civil penalty for an offense
13 under subsection (a) of this section shall not be subject to a civil violation for
14 the same actions under subsection (b) of this section.

15 Sec. 14. 23 V.S.A. § 1134a is amended to read:

16 § 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR
17 POSSESSION OF ALCOHOL OR MARIJUANA

18 (a) Except as provided in subsection (c) of this section, a passenger in a
19 motor vehicle shall not consume an alcoholic beverage or marijuana
20 ~~or possess any open container which contains alcoholic beverages~~ in the
21 passenger area of any motor vehicle on a public highway. ~~As used in this~~

1 section, ~~“alcoholic beverages” shall have the same meaning as “intoxicating~~
2 ~~liquor” as defined in section 1200 of this title.~~

3 (b) A passenger in a motor vehicle shall not possess any open container
4 which contains an alcoholic beverage or marijuana in the passenger area of the
5 motor vehicle.

6 (c) As used in this section:

7 (1) “Alcoholic beverage” shall have the same meaning as “intoxicating
8 liquor” as defined in section 1200 of this title.

9 (2) ~~“passenger~~ Passenger area” shall mean the area designed to seat the
10 operator and passengers while the motor vehicle is in operation and any area
11 that is readily accessible to the operator or passengers while in their seating
12 positions, including the glove compartment, unless the glove compartment is
13 locked. In a motor vehicle that is not equipped with a trunk, the term shall
14 exclude the area behind the last upright seat or any area not normally occupied
15 by the operator or passengers.

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

1 ~~(d)~~(e) A person who ~~violates~~ consumes an alcoholic beverage or possesses
2 an open container which contains an alcoholic beverage in violation of this
3 section shall be ~~fin~~essed a civil penalty of not more than \$25.00.

4 A person who consumes marijuana or possesses an open container which
5 contains marijuana in violation of this section shall be assessed a civil penalty
6 of not more than \$200.00.

7 Sec. 15. 23 V.S.A. § 1134b is amended to read:

8 § 1134b. SMOKING USING TOBACCO OR MARIJUANA IN A MOTOR
9 VEHICLE WITH CHILD PRESENT

10 (a) A person shall not possess a lighted tobacco product or use a tobacco
11 substitute as defined in 7 V.S.A. § 1001 in a motor vehicle that is occupied by
12 a child required to be properly restrained in a federally approved child
13 passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this
14 title.

15 (b) A person shall not use marijuana as defined in 18 V.S.A. § 4201 in a
16 motor vehicle that is occupied by a child under 18 years of age.

17 (c)(1) A person who violates subsection (a) of this section shall be subject
18 to a ~~fine~~ civil penalty of not more than \$100.00. ~~No~~ and no points shall be
19 assessed ~~for a violation of this section.~~

20 (2) A person who violates subsection (b) of this section commits a
21 misdemeanor crime and shall be subject to the following penalties:

- 1 (A) a fine of not more than \$500.00 for a first offense;
2 (B) a fine of not more than \$750.00 for a second offense;
3 (C) a fine of not more than \$1,000.00 for a third or subsequent
4 offense.

5 (3) A person who violates subsection (b) of this section shall be assessed
6 two points.

7 Sec. 16. 33 V.S.A. § 3504 is amended to read:

8 § 3504. MARIJUANA AND TOBACCO USE PROHIBITED AT CHILD
9 CARE FACILITIES

10 (a) No person shall be permitted to use marijuana as defined in 18 V.S.A.
11 § 4201 or to cultivate marijuana, or use tobacco products or tobacco substitutes
12 as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any
13 licensed child care center or afterschool program at any time.

14 (b) No person shall be permitted to use marijuana as defined in 18 V.S.A.
15 § 4201, tobacco products, or tobacco substitutes as defined in 7 V.S.A. § 1001
16 on the premises, both ~~indoor~~ indoors and in any outdoor area designated for
17 child care, of a licensed or registered family child care home while children are
18 present and in care. If use of marijuana or smoking of tobacco products or
19 tobacco substitutes occurs on the premises during other times, the family child
20 care home shall notify prospective families prior to enrolling a child in the
21 family child care home that their child will be exposed to an environment in

1 which marijuana, tobacco products, or tobacco substitutes, ~~or both~~, are used.
2 Cultivation of marijuana in a licensed or registered family child care home is
3 not permitted.

4 (c) A person who knowingly uses or cultivates marijuana in violation of
5 this section commits a misdemeanor crime and shall be subject to the
6 following penalties:

7 (1) a fine of not more than \$500.00 for a first offense;

8 (2) a fine of not more than \$750.00 for a second offense;

9 (3) a fine of not more than \$1,000.00 for a third or subsequent offense.

10 Sec. 17. DISPARITIES IN ENFORCEMENT OF DRUG LAWS;

11 MARIJUANA REGULATORY COMMISSION

12 (a) Findings. The General Assembly finds that:

13 (1) A 2013 report by the American Civil Liberties Union, The War on
14 Marijuana in Black and White, identified Vermont as 15th in the country and
15 first in New England when comparing discrepancies in citation and arrest rates
16 for marijuana possession. The report stated that African-Americans in
17 Vermont were 4.36 times more likely to be cited or arrested for marijuana
18 possession than whites, higher than the national average of African-Americans
19 being 3.73 more likely than whites to be cited or arrested for marijuana
20 possession. Although Vermont later decriminalized possession of small
21 amounts of marijuana, a 2016 report by Human Rights Watch and the ACLU,

1 Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United
2 States, found that Vermont had the third-highest racial disparity in drug
3 possession arrest rates in the country despite nearly identical use rates.

4 (2) In the report, Driving While Black or Brown in Vermont, University
5 of Vermont researchers, examining 2015 data from 29 police agencies
6 covering 78 percent of Vermont’s population, found significant disparities in
7 how often African-Americans and Hispanics are stopped, searched, and
8 arrested, as compared to whites and Asians. According to the report, African-
9 American drivers are four times more likely than white drivers to be searched
10 by Vermont police, even though they are less likely to be found with illegal
11 items.

12 (3) As part of efforts to eliminate implicit bias in Vermont’s criminal
13 justice system, policymakers must reexamine the State’s drug laws, beginning
14 with its policy on marijuana.

15 (4) According to a 2014 study conducted by the RAND Corporation, an
16 estimated 80,000 Vermont residents regularly consume marijuana. Except for
17 patients on the Vermont Medical Marijuana Registry, these Vermonters obtain
18 marijuana through a thriving illegal market.

19 (5) In November 2016, voters in Massachusetts and Maine approved
20 possession and cultivation of marijuana for personal use by adults 21 years of
21 age or older. In July 2018, both states will begin to allow retail sales of

1 marijuana and marijuana-infused products through licensed stores. Canada is
2 expected to act favorably on legislation legalizing marijuana possession and
3 cultivation for adults 18 years of age or older and federal administration
4 officials have cited the summer of 2018 as the date at which licensed retail
5 stores will begin selling marijuana and marijuana-infused products to the
6 public.

7 (6) By adopting a comprehensive regulatory structure for legalizing and
8 licensing the marijuana market, Vermont can revise drug laws that have a
9 disparate impact on racial minorities, help prevent access to marijuana by
10 youths, better control the safety and quality of marijuana being consumed by
11 Vermonters, substantially reduce the illegal marijuana market, and use
12 revenues to support substance use prevention and education and enforcement
13 of impaired driving laws.

14 (b) Creation. There is created the Marijuana Regulatory Commission.

15 (c) Membership. The Commission shall be composed of the following 14
16 members:

17 (1) two current members of the House of Representatives who shall be
18 appointed by the Speaker of the House;

19 (2) two current members of the Senate who shall be appointed by the
20 Committee on Committees;

21 (3) a member appointed by the Speaker of the House;

1 (4) a member appointed by the Committee on Committees;

2 (5) the Commissioner of Public Safety or designee;

3 (6) the Commissioner of Health or designee;

4 (7) the Commissioner of Taxes or designee;

5 (8) the Secretary of Commerce and Community Development or
6 designee;

7 (9) the Secretary of Agriculture, Food and Markets or designee;

8 (10) one member appointed by the Governor;

9 (11) the Attorney General or designee; and

10 (12) the Defender General or designee.

11 (d) Powers and duties. The Commission shall issue a report of its findings
12 and recommendations and develop legislation that establishes a comprehensive
13 regulatory and revenue system for an adult-use marijuana market that, when
14 compared to the current illegal marijuana market, increases public safety and
15 reduces harm to public health, and results in net revenue to the State.

16 (e) Best practices. The Commission shall examine best practices for
17 addressing:

18 (1) impaired driving, including consideration of a regional impairment
19 threshold for the New England states and parity in impaired driving laws and
20 penalties;

1 (2) prevention and education related to marijuana use, access to
2 marijuana by persons under 21 years of age, impacts to public health, and
3 consumer safety issues such as use of pesticides, GMOs, and testing of
4 marijuana in a regulated market;

5 (3) regulation and taxation of a commercial adult-use marijuana market
6 that is economically sustainable, reduces the illegal marijuana market, results
7 in net revenues to the State after appropriate costs for education, public health
8 and public safety have been deducted; and

9 (4) liability issues, including consideration of federal law, banking,
10 landlords, and insurance.

11 (f) Subcommittees. The Commission may establish subcommittees for the
12 purpose of carrying out its charge and may consult with stakeholders and
13 interested parties, as appropriate.

14 (g) Assistance. The Commission shall have the administrative, technical,
15 and legal assistance of the Office of the Governor, the Secretary of
16 Administration, and relevant administrative agencies and departments. The
17 Office of Legislative Council shall provide legal assistance to the legislative
18 members of the Commission and drafting services to the entire Commission for
19 the purpose of developing the legislation required by subsection (d) of this
20 section.

21 (h) Report and legislation.

1 (1) On or before January 15, 2018, the Commission shall provide the
2 General Assembly and the Governor with an interim report and recommended
3 legislation that shall address at a minimum:

4 (A) public safety recommendations to address impaired driving;

5 (B) requirements and funding for statewide evidence-based youth
6 prevention programs;

7 (C) any recommended changes to the civil action for damages
8 established in 18 V.S.A. § 4230g; and

9 (D) any recommended changes to the definitions of “open container”
10 and “passenger area” as used in 23 V.S.A. §§ 1134 and 1134a.

11 (2) On or before December 31, 2018, the Commission shall provide the
12 General Assembly and the Governor with its final report and recommended
13 legislation on implementing and operating a comprehensive regulatory and
14 revenue system for an adult marijuana market.

15 (i) Meetings.

16 (1) The Governor shall call the first meeting of the Commission to occur
17 on or before August 1, 2017.

18 (2) The Commission shall elect a chair from among its members at the
19 first meeting.

20 (3) A majority of the membership shall constitute a quorum.

21 (4) The Commission shall cease to exist on March 15, 2019.

1 (j) Reimbursement.

2 (1) For attendance at meetings during adjournment of the General
3 Assembly, legislative members of the Commission shall be entitled to per diem
4 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for
5 no more than six meetings.

6 (2) Other members of the Commission who are not employees of the
7 State of Vermont and who are not otherwise compensated or reimbursed for
8 their attendance shall be entitled to per diem compensation and reimbursement
9 of expenses pursuant to 32 V.S.A. § 1010.

10 Sec. 18. EFFECTIVE DATES

11 This section and Sec. 17 shall take effect on passage and the remaining
12 sections shall take effect on July 1, 2018.

13 and that after passage the title of the bill be amended to read: “An act relating
14 to eliminating penalties for possession of limited amounts of marijuana by
15 adults 21 years of age or older”

16

17 (Committee vote: _____)

18

19

Senator _____

20

FOR THE COMMITTEE