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H.162

Representative Haas of Rochester moves that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. INTENT

It is the intent of the General Assembly to decriminalize possession 480 milligrams or less of buprenorphine. Minors in possession of 480 milligrams or less of buprenorphine would be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. Knowing and unlawful possession of more than 480 milligrams of buprenorphine would continue to be criminal and penalized in the same manner as other narcotics pursuant to 18 V.S.A. § 4234.

Sec. 2. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

(1)(A) A Except as provided by subdivision (1)(B) of this subsection, a person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both.

1 (B) A person knowingly and unlawfully possessing more than 480
2 milligrams of buprenorphine shall be punished in accordance with subdivision
3 (1)(A) of this subsection.

4 * * *

5 (c) Possession of buprenorphine by a person under 18 years of age.
6 (1) A person under 18 years of age who knowingly and unlawfully
7 possesses 480 milligrams or less of buprenorphine commits a civil violation
8 and shall be referred to the Court Diversion Program for the purpose of
9 enrollment in the Youth Substance Abuse Safety Program. A person who fails
10 to complete the program successfully shall be subject to:

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

14 (B) 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 (2) A law enforcement officer shall issue a person under 18 years of age
18 who violates this subsection a notice of violation in a form approved by the
19 Court Administrator. The notice of violation shall require the person to
20 provide his or her name and address and shall explain procedures under this
21 subsection, including that:

1 (A) the person shall contact the Diversion Program in the county
2 where the offense occurred within 15 days;

3 (B) failure to contact the Diversion Program within 15 days will
4 result in the case being referred to the Judicial Bureau, where the person, if
5 found liable for the violation, will be subject to a civil penalty and a suspension
6 of the person’s operator’s license and may face substantially increased
7 insurance rates;

8 (C) no money should be submitted to pay any penalty until after
9 adjudication; and

10 (D) the person shall notify the Diversion Program if the person’s
11 address changes.

12 (3) When a person is issued a notice of violation under this subsection,
13 the law enforcement officer shall complete a summons and complaint for the
14 offense and send it to the Diversion Program in the county where the offense
15 occurred. The summons and complaint shall not be filed with the Judicial
16 Bureau at that time.

17 (4) Within 15 days after receiving a notice of violation, the person shall
18 contact the Diversion Program in the county where the offense occurred and
19 register for the Youth Substance Abuse Safety Program. If the person fails to
20 do so, the Diversion Program shall file the summons and complaint with the
21 Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion

1 Program shall provide a copy of the summons and complaint to the law
2 enforcement officer who issued the notice of violation and shall provide two
3 copies to the person charged with the violation.

4 (5) Upon receipt from a law enforcement officer of a summons and
5 complaint completed under this subsection, the Diversion Program shall send
6 the person a notice to report to the Diversion Program. The notice to report
7 shall provide that:

8 (A) The person is required to complete all conditions related to the
9 offense imposed by the Diversion Program, including substance abuse
10 screening and, if deemed appropriate following the screening, substance abuse
11 assessment or substance abuse counseling, or both.

12 (B) If the person does not satisfactorily complete the substance abuse
13 screening, any required substance abuse assessment or substance abuse
14 counseling, or any other condition related to the offense imposed by the
15 Diversion Program, the case will be referred to the Judicial Bureau, where the
16 person, if found liable for the violation, shall be assessed a civil penalty, the
17 person's operator's license will be suspended, and the person's automobile
18 insurance rates may increase substantially.

19 (C) If the person satisfactorily completes the substance abuse screening,
20 any required substance abuse assessment or substance abuse counseling, and
21 any other condition related to the offense imposed by the Diversion Program,

1 no penalty shall be imposed and the person’s operator’s license shall not be
2 suspended.

3 (6)(A) Upon being contacted by a person who has been issued a notice
4 of violation, the Diversion Program shall register the person in the Youth
5 Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse
6 Safety Program, the Diversion Program shall impose conditions on the person.
7 The conditions imposed shall include only conditions related to the offense and
8 in every case shall include a condition requiring satisfactory completion of
9 substance abuse screening using an evidence-based tool and, if deemed
10 appropriate following the screening, substance abuse assessment and substance
11 abuse education or substance abuse counseling, or both. If the screener
12 recommends substance abuse counseling, the person shall choose a State-
13 certified or State-licensed substance abuse counselor or substance abuse
14 treatment provider to provide the services.

15 (B) Substance abuse screening required under this subdivision (6)
16 shall be completed within 60 days after the Diversion Program receives a
17 summons and complaint. The person shall complete all conditions at the
18 person’s own expense.

19 (C) When a person has satisfactorily completed substance abuse
20 screening, any required substance abuse education or substance abuse

1 counseling, and any other condition related to the offense that the Diversion
2 Program has imposed, the Diversion Program shall:

3 (i) Void the summons and complaint with no penalty due.

4 (ii) Send copies of the voided summons and complaint to the
5 Judicial Bureau and to the law enforcement officer who completed them.
6 Before sending copies of the voided summons and complaint to the Judicial
7 Bureau, the Diversion Program shall redact all language containing the
8 person's name, address, Social Security number, and any other information
9 that identifies the person.

10 (D) If a person does not satisfactorily complete substance abuse
11 screening, any required substance abuse education or substance abuse
12 counseling, or any other condition related to the offense imposed by the
13 Diversion Program or if the person fails to pay the Diversion Program any
14 required Program fees, the Diversion Program shall file the summons and
15 complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29.
16 The Diversion Program shall provide a copy of the summons and complaint to
17 the law enforcement officer who issued the notice of violation and shall
18 provide two copies to the person charged with the violation.

19 (E) A person aggrieved by a decision of the Diversion Program or
20 alcohol counselor may seek review of that decision pursuant to Rule 75 of the
21 Vermont Rules of Civil Procedure.

1 (7) Upon adjudicating a person in violation of this subsection, the
2 Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall
3 maintain a record of all such adjudications, that shall be separate from the
4 registry maintained by the Department for motor vehicle driving records. The
5 identity of a person in the registry shall be revealed only to a law enforcement
6 officer determining whether the person has previously violated this subsection.

7 Sec. 3. EFFECTIVE DATE

8 This act shall take effect July 1, 2020.

9 and that after passage the title of the bill be amended to read: “An act relating
10 to possession of Buprenorphine”