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H.225

Introduced by Representatives Pugh of South Burlington, Brumsted of
Shelburne, Cina of Burlington, Colburn of Burlington, Cordes
of Lincoln, Houghton of Essex, Killacky of South Burlington,
Lippert of Hinesburg, Nicoll of Ludlow, Rachelson of
Burlington, and Townsend of South Burlington

Referred to Committee on

Date:

Subject: Health; regulated drugs; buprenorphine

Statement of purpose of bill as introduced: This bill proposes to replace
criminal penalties with civil penalties for possession of 224 milligrams or less
of buprenorphine.

An act relating to possession of a therapeutic dosage of buprenorphine

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. INTENT

It is the intent of the General Assembly to decriminalize possession of
224 milligrams or less of buprenorphine. Persons under 21 years of age in
possession of 224 milligrams or less of buprenorphine would be referred to the
Court Diversion Program for the purpose of enrollment in the Youth Substance
Awareness Safety Program. Knowing and unlawful possession of more than

1 224 milligrams of buprenorphine would continue to be criminal and penalized
2 in the same manner as other narcotics pursuant to 18 V.S.A. § 4234.

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

4 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

5 (a) Possession.

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

10 (B) A person knowingly and unlawfully possessing more than
11 224 milligrams of buprenorphine shall be punished in accordance with
12 subdivision (A) of this subdivision (1).

13 * * *

14 (c) Possession of buprenorphine by a person under 21 years of age.

15 (1) A person under 21 years of age who knowingly and unlawfully
16 possesses 224 milligrams or less of buprenorphine commits a civil violation
17 and shall be referred to the Court Diversion Program for the purpose of
18 enrollment in the Youth Substance Awareness Safety Program. A person who
19 fails to complete the program successfully shall be subject to:

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

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

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

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

14 (B) failure to contact the Diversion Program within 15 days shall
15 result in the case being referred to the Judicial Bureau, where the person, if
16 found liable for the violation, shall be subject to a civil penalty and a
17 suspension of the person's operator's license and may face substantially
18 increased insurance rates;

19 (C) no money shall be submitted to pay any penalty until after
20 adjudication; and

1 (D) the person shall notify the Diversion Program if the person's
2 address changes.

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

8 (4) Within 15 days after receiving a notice of violation, the person shall
9 contact the Diversion Program in the county where the offense occurred and
10 register for the Youth Substance Awareness Safety Program. If the person
11 fails to do so, the Diversion Program shall file the summons and complaint
12 with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The
13 Diversion Program shall provide a copy of the summons and complaint to the
14 law enforcement officer who issued the notice of violation and shall provide
15 two copies to the person charged with the violation.

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

20 (A) The person is required to complete all conditions related to the
21 offense imposed by the Diversion Program, including substance abuse

1 screening and, if deemed appropriate following the screening, substance abuse
2 assessment or substance abuse counseling, or both.

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

10 (C) If the person satisfactorily completes the substance abuse
11 screening, any required substance abuse assessment or substance abuse
12 counseling, and any other condition related to the offense imposed by the
13 Diversion Program, no penalty shall be imposed and the person's operator's
14 license shall not be suspended.

15 (6)(A) Upon being contacted by a person who has been issued a notice
16 of violation, the Diversion Program shall register the person in the Youth
17 Substance Awareness Safety Program. Pursuant to the Youth Substance
18 Awareness Safety Program, the Diversion Program shall impose conditions on
19 the person. The conditions imposed shall include only conditions related to the
20 offense and in every case shall include a condition requiring satisfactory
21 completion of substance abuse screening using an evidence-based tool and, if

1 deemed appropriate following the screening, substance abuse assessment and
2 substance abuse education or substance abuse counseling, or both. If the
3 screeener recommends substance abuse counseling, the person shall choose a
4 State-certified or State-licensed substance abuse counselor or substance abuse
5 treatment provider to provide the services.

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

10 (C) When a person has satisfactorily completed substance abuse
11 screening, any required substance abuse education or substance abuse
12 counseling, and any other condition related to the offense that the Diversion
13 Program has imposed, the Diversion Program shall:

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

15 (ii) Send copies of the voided summons and complaint to the
16 Judicial Bureau and to the law enforcement officer who completed them.
17 Before sending copies of the voided summons and complaint to the Judicial
18 Bureau, the Diversion Program shall redact all language containing the
19 person's name, address, Social Security number, and any other information
20 that identifies the person.

1 (D) If a person does not satisfactorily complete substance abuse
2 screening, any required substance abuse education or substance abuse
3 counseling, or any other condition related to the offense imposed by the
4 Diversion Program or if the person fails to pay the Diversion Program any
5 required program fees, the Diversion Program shall file the summons and
6 complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29.
7 The Diversion Program shall provide a copy of the summons and complaint to
8 the law enforcement officer who issued the notice of violation and shall
9 provide two copies to the person charged with the violation.

10 (E) A person aggrieved by a decision of the Diversion Program or
11 substance abuse counselor may seek review of that decision pursuant to
12 Rule 75 of the Vermont Rules of Civil Procedure.

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

19 Sec. 3. EFFECTIVE DATE

20 This act shall take effect on July 1, 2021.