

1 H.505

2 Introduced by Representatives Grad of Moretown, LaLonde of South

3 Burlington, and Notte of Rutland City

4 Referred to Committee on

5 Date:

6 Subject: Crimes; regulated drugs; fentanyl

7 Statement of purpose of bill as introduced: This bill proposes to reclassify the
8 penalties for unlawfully possessing, dispensing, and selling regulated drugs; to
9 combine the criminal penalties for dispensing or selling heroin, fentanyl, or a
10 combination of heroin and fentanyl; and establish a statutory definition for the
11 “knowingly” mental state required in the heroin and fentanyl statute to include
12 actual knowledge as well as situations in which an individual subjectively
13 believes there is a high probability that a fact exists and takes deliberate
14 actions to avoid learning of that fact.

15 ~~An act relating to reclassification of penalties for unlawfully possessing,~~
16 ~~dispensing, and selling a regulated drug.~~

*An act relating to the creation of the Drug Use Standards Advisory Board
within the Vermont Sentencing Commission*

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

1 ~~Sec. 1. 18 V.S.A. § 4215a is amended to read:~~

2 § 4215a. SALE OF SCHEDULE V DRUGS

3 (a) A duly licensed pharmacist may sell and dispense schedule V drugs
4 only upon written prescription or oral prescription ~~which~~ that is promptly
5 reduced to writing ~~by a pharmacist, of a licensed physician, dentist, or~~
6 veterinarian, dated and signed by the person prescribing or, if an oral
7 prescription, by the pharmacist on the date when written.

8 * * *

9 (d) ~~For a first offense, a~~ A person knowingly and unlawfully violating the
10 provisions of this section ~~may be imprisoned for not more than six months or~~
11 ~~fined not more than \$500.00, or both. For a second or subsequent offense, a~~
12 ~~person knowingly and unlawfully violating the provisions of this section may~~
13 ~~be imprisoned for not more than two years or fined not more than \$2,000.00,~~
14 ~~or both~~ commits a Class C misdemeanor.

15 Sec. 2. 18 V.S.A. § 4223 is amended to read:

16 § 4223. FRAUD OR DECEIT

17

1 ~~(i) A person who violates this section shall be imprisoned not more than~~
2 ~~two years and one day or fined not more than \$5,000.00, or both commits a~~
3 ~~Class A misdemeanor.~~

4 Sec. 3. 18 V.S.A. § 4229a is added to read:

5 § 4229a. FELONY POSSESSION; AFFIRMATIVE DEFENSE

6 (a) In any prosecution for felony possession under section 4230 or sections
7 4231–4235a of this title, the defendant may raise as an affirmative defense that
8 the amount of the unlawfully possessed drug was intended for personal use by
9 the defendant.

10 (b) If the defendant proves by a preponderance of the evidence that the
11 drugs unlawfully possessed were for personal use by the defendant, the
12 defendant shall be subject to a Class B misdemeanor.

13 Sec. 4. 18 V.S.A. § 4228 is amended to read:

14 § 4228. UNLAWFUL MANUFACTURE, DISTRIBUTION, DISPENSING,
15 OR SALE OF A NONCONTROLLED DRUG OR SUBSTANCE

16 (a) It is unlawful for any person to knowingly dispense, manufacture,
17 process, package, distribute, or sell or attempt to dispense, manufacture,
18 process, package, distribute, or sell a noncontrolled drug or substance upon
19 either:

20 (1) the express or implied representation that the drug or substance is a
21 controlled drug, or

1 ~~(2) the express or implied representation that the drug or substance is of~~
2 such nature or appearance that the dispensee or purchaser will be able to
3 dispense or sell the drug or substance as a controlled drug.

4 (b) For the purposes of this section, a “controlled” drug or substance shall
5 mean those drugs or substances listed under schedules I through V in the
6 federal Controlled Substances Act, 21 U.S.C. § 801 et seq. as amended.

7 * * *

8 (f) A person convicted of violating this section ~~shall be subject to~~
9 ~~imprisonment for a term of up to one year or a fine of up to \$5,000.00, or both~~
10 ~~commits a Class B misdemeanor.~~ If the violation of this section involves
11 dispensing, distributing, or selling to a person under ~~the age of 21~~ years of age,
12 the person ~~shall be subject to a term of imprisonment of not more than two~~
13 ~~years or fined up to \$10,000.00, or both~~ commits a Class A misdemeanor.

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

15 § 4230. CANNABIS

16 (a) Possession and cultivation.

17 (1) No person shall knowingly and unlawfully possess more than one
18 ounce of cannabis or more than five grams of hashish or cultivate more than
19 two mature cannabis plants or four immature cannabis plants. A person who
20 violates this subdivision shall be assessed a civil 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 (2)(A) No person shall knowingly and unlawfully possess ~~two ounces~~
4 60 grams or more of cannabis or ten grams or more of hashish or more than
5 three mature cannabis plants or six immature cannabis plants. For a first
6 offense under this subdivision (2), a person shall be provided the opportunity
7 to participate in the Court Diversion Program unless the prosecutor states on
8 the record why a referral to the Court Diversion Program would not serve the
9 ends of justice. A person convicted of a first offense under this subdivision
10 ~~shall be imprisoned not more than six months or fined not more than \$500.00,~~
11 ~~or both~~ (2) commits a Class B misdemeanor.

12 (B) A person convicted of a second or subsequent offense of
13 violating subdivision (A) of this subdivision (2) ~~shall be imprisoned not more~~
14 ~~than two years or fined not more than \$2,000.00, or both~~ commits a Class A
15 misdemeanor.

16 (C) Upon an adjudication of guilt for a first or second offense under
17 this subdivision (2), the court may defer sentencing as provided in 13 V.S.A.
18 § 7041, except that the court may in its discretion defer sentence without the
19 filing of a presentence investigation report and except that sentence may be
20 imposed at any time within two years from and after the date of entry of
21 ~~deferment. The court may, prior to sentencing, order that the defendant submit~~

1 ~~to a drug assessment screening, which may be considered at sentencing in the~~
2 same manner as a presentence report.

3 (3) A person knowingly and unlawfully possessing eight ounces of
4 cannabis or 1.4 ounces of hashish or knowingly and unlawfully cultivating
5 more than four mature cannabis plants or eight immature cannabis plants ~~shall~~
6 ~~be imprisoned not more than three years or fined not more than \$10,000.00, or~~
7 ~~both~~ commits a Class A misdemeanor.

8 (4) A person knowingly and unlawfully possessing more than one
9 pound of cannabis or more than 2.8 ounces of hashish or knowingly and
10 unlawfully cultivating more than six mature cannabis plants or 12 immature
11 cannabis plants ~~shall be imprisoned not more than five years or fined not more~~
12 ~~than \$10,000.00, or both~~ commits a Class E felony.

13 (5) A person knowingly and unlawfully possessing more than 10 pounds
14 of cannabis or more than one pound of hashish or knowingly and unlawfully
15 cultivating more than 12 mature cannabis plants or 24 immature cannabis
16 plants ~~shall be imprisoned not more than 15 years or fined not more than~~
17 ~~\$500,000.00, or both~~ commits a Class D felony.

18 (6) If a court fails to provide the defendant with notice of collateral
19 consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later
20 at any time shows that the plea and conviction for a violation of this subsection
21 ~~may have or has had a negative consequence, the court, upon the defendant's~~

1 ~~motion, shall vacate the judgment and permit the defendant to withdraw the~~
2 plea or admission and enter a plea of not guilty. Failure of the court to advise
3 the defendant of a particular collateral consequence shall not support a motion
4 to vacate.

5 (7) The amounts of cannabis in this subsection shall not include
6 cannabis cultivated, harvested, and stored in accordance with section 4230e of
7 this title.

8 (b) Selling or dispensing

9 (1) A person knowingly and unlawfully selling cannabis or hashish shall
10 be imprisoned not more than two years or fined not more than \$10,000.00, or
11 both commits a Class B misdemeanor.

12 (2) A person knowingly and unlawfully selling or dispensing more than
13 one ounce of cannabis or five grams or more of hashish shall be imprisoned
14 not more than five years or fined not more than \$100,000.00, or both commits
15 a Class A misdemeanor.

16 (3) A person knowingly and unlawfully selling or dispensing one pound
17 or more of cannabis or 2.8 ounces or more of hashish shall be imprisoned not
18 more than 15 years or fined not more than \$500,000.00, or both commits a
19 Class D felony.

20 (4) A person 21 years of age or older may dispense one ounce or less of
21 cannabis or five grams or less of hashish to another person who is 21 years of

1 ~~age or older, provided that the dispensing is not advertised or promoted to the~~
2 public.

3 (c) Trafficking. A person knowingly and unlawfully possessing 50 pounds
4 or more of cannabis or five pounds or more of hashish with the intent to sell or
5 dispense the cannabis or hashish ~~shall be imprisoned not more than 30 years or~~
6 ~~fined not more than \$1,000,000.00, or both~~ commits a Class C felony. There
7 shall be a permissive inference that a person who possesses 50 pounds or more
8 of cannabis or five pounds or more of hashish intends to sell or dispense the
9 cannabis or hashish.

10 * * *

11 Sec. 6. 18 V.S.A. § 4230f is amended to read:

12 § 4230f. DISPENSING CANNABIS TO A PERSON UNDER 21 YEARS
13 OF AGE; CRIMINAL OFFENSE

14 (a) No person shall:

15 (1) dispense cannabis to a person under 21 years of age; or

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

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

20 (c) Except as provided in subsection (d) of this section, a person who

21 ~~violates subsection (a) of this section shall be imprisoned not more than two~~

1 ~~years or fined not more than \$2,000.00, or both commits a Class A~~
2 ~~misdeemeanor.~~

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

9 (e)(1) ~~Subsections (a)–(d) of this section shall not apply to a person under~~
10 ~~21 years of age who dispenses cannabis to a person under 21 years of age or~~
11 ~~who knowingly enables the consumption of cannabis by a person under~~
12 ~~21 years of age.~~

13 (2) ~~A person who is 18, 19, or 20 years of age who knowingly dispenses~~
14 ~~cannabis to a person who is 18, 19, or 20 years of age commits a civil violation~~
15 ~~and shall be referred to the Court Diversion Program for the purpose of~~
16 ~~enrollment in the Youth Substance Awareness Safety Program in accordance~~
17 ~~with the provisions of section 4230b of this title and shall be subject to the~~
18 ~~penalties in that section for failure to complete the program successfully.~~

19 (3) ~~A person 18, 19, or 20 years of age who knowingly dispenses to a~~
20 ~~person under 18 years of age who is at least three years that person's junior~~

1 ~~shall be sentenced to a term of imprisonment of not more than five years in~~
2 ~~accordance with section 4237 of this title~~ commits a Class B misdemeanor.

3 (4) A person who is 19 years of age who knowingly dispenses to a
4 person 17 years of age or a person who is 18 years of age who knowingly
5 dispenses cannabis to a person who is 16 or 17 years of age commits a
6 ~~misdemeanor crime and shall be fined not more than \$500.00~~ Class E
7 misdemeanor.

8 (5) A person who is under 18 years of age who knowingly dispenses
9 cannabis to another person who is under 18 years of age commits a delinquent
10 act and shall be subject to 33 V.S.A. chapter 52.

11 * * *

12 Sec. 7. 18 V.S.A. § 4230h is amended to read:

13 § 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE
14 PROHIBITED

15 (a) No person shall manufacture concentrated cannabis by chemical
16 extraction or chemical synthesis using butane or hexane ~~unless authorized as a~~
17 ~~dispensary pursuant to a registration issued by the Department of Public Safety~~
18 ~~pursuant to chapter 86 of this title.~~

19 (b) A person who violates subsection (a) of this section ~~shall be imprisoned~~
20 ~~not more than two years or fined not more than \$2,000.00, or both~~ commits a
21 Class A misdemeanor. ~~A person who violates subsection (a) of this section~~

1 ~~and causes serious bodily injury to another person shall be imprisoned not~~
2 ~~more than five years or fined not more than \$5,000.00, or both commits a~~
3 ~~Class E felony.~~

4 Sec. 8. 18 U.S.A. § 4231 is amended to read:

5 § 4231. COCAINE

6 (a) Possession.

7 (1) A person knowingly and unlawfully possessing cocaine shall be
8 ~~imprisoned not more than one year or fined not more than \$2,000.00, or both~~
9 ~~commits a Class B misdemeanor.~~

10 (2) A person knowingly and unlawfully possessing cocaine in an
11 amount consisting of ~~2.5~~ 5 grams or more of one or more preparations,
12 compounds, mixtures, or substances containing cocaine shall be imprisoned
13 ~~not more than five years or fined not more than \$100,000.00, or both commits~~
14 ~~a Class E felony.~~

15 (3) A person knowingly and unlawfully possessing cocaine in an
16 amount consisting of ~~one ounce~~ 30 grams or more of one or more preparations,
17 compounds, mixtures, or substances containing cocaine shall be imprisoned
18 ~~not more than 10 years or fined not more than \$250,000.00, or both commits a~~
19 ~~Class D felony.~~

20 ~~(4) [Deleted.] [Repeated.]~~

1 ~~(b) Selling or dispensing~~

2 ~~(1) A person knowingly and unlawfully dispensing cocaine shall be~~
3 ~~imprisoned not more than three years or fined not more than \$75,000.00, or~~
4 ~~both commits a Class E felony. A person knowingly and unlawfully selling~~
5 ~~cocaine shall be imprisoned not more than five years or fined not more than~~
6 ~~\$100,000.00, or both commits a Class D felony.~~

7 ~~(2) A person knowingly and unlawfully selling or dispensing cocaine in~~
8 ~~an amount consisting of 2.5 grams or more of one or more preparations,~~
9 ~~compounds, mixtures, or substances containing cocaine shall be imprisoned~~
10 ~~not more than 10 years or fined not more than \$250,000.00, or both.~~

11 ~~[Repealed.]~~

12 ~~(3) A person knowingly and unlawfully selling or dispensing cocaine in~~
13 ~~an amount consisting of one ounce 30 grams or more of one or more~~
14 ~~preparations, compounds, mixtures, or substances containing cocaine shall be~~
15 ~~imprisoned not more than 20 years or fined not more than \$1,000,000.00, or~~
16 ~~both commits a Class C felony.~~

17 ~~(c) Trafficking.~~

18 ~~(1) Trafficking. A person knowingly and unlawfully possessing cocaine~~
19 ~~in an amount consisting of 150 100 grams or more of one or more~~
20 ~~preparations, compounds, mixtures, or substances containing cocaine with the~~
21 ~~intent to sell or dispense the cocaine shall be imprisoned not more than 30~~

1 ~~years or fined not more than \$1,000,000.00, or both, commits a Class B felony.~~

2 There shall be a permissive inference that a person who possesses cocaine in
3 an amount consisting of ~~150~~ 100 grams or more of one or more preparations,
4 compounds, mixtures, or substances containing cocaine intends to sell or
5 dispense the cocaine. The amount of possessed cocaine under this subdivision
6 to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be ~~no~~ not less
7 than 400 grams in the aggregate.

8 (2) ~~A person knowingly and unlawfully possessing crack cocaine in an~~
9 ~~amount consisting of 60 grams or more of one or more preparations,~~
10 ~~compounds, mixtures, or substances containing crack cocaine with the intent to~~
11 ~~sell or dispense the crack cocaine shall be imprisoned not more than 30 years~~
12 ~~or fined not more than \$1,000,000.00, or both. There shall be a permissive~~
13 ~~inference that a person who possesses crack cocaine in an amount consisting of~~
14 ~~60 grams or more of one or more preparations, compounds, mixtures, or~~
15 ~~substances containing crack cocaine intends to sell or dispense the crack~~
16 ~~cocaine. [Repealed.]~~

17 Sec. 9. 18 V.S.A. § 4232 is amended to read:

18 § 4232. LSD

19 ~~(a) Possession.~~

1 ~~(1) A person knowingly and unlawfully possessing lysergic acid~~
2 ~~diethylamide shall be imprisoned not more than one year or fined not more~~
3 ~~than \$2,000.00, or both commits a Class B misdemeanor.~~

4 ~~(2) A person knowingly and unlawfully possessing lysergic acid~~
5 ~~diethylamide in an amount consisting of 100 milligrams or more of one or~~
6 ~~more preparations, compounds, mixtures, or substances containing lysergic~~
7 ~~acid diethylamide shall be imprisoned not more than five years or fined not~~
8 ~~more than \$25,000.00, or both commits a Class E felony.~~

9 ~~(3) A person knowingly and unlawfully possessing lysergic acid~~
10 ~~diethylamide in an amount consisting of one gram or more of one or more~~
11 ~~preparations, compounds, mixtures, or substances containing lysergic acid~~
12 ~~diethylamide shall be imprisoned not more than 10 years or fined not more~~
13 ~~than \$100,000.00, or both commits a Class D felony.~~

14 ~~(4) A person knowingly and unlawfully possessing lysergic acid~~
15 ~~diethylamide in an amount consisting of 10 grams or more of one or more~~
16 ~~preparations, compounds, mixtures, or substances containing lysergic acid~~
17 ~~diethylamide shall be imprisoned not more than 20 years or fined not more~~
18 ~~than \$500,000.00, or both. [Repealed.]~~

19 (b) Selling or dispensing.

20 (1) A person knowingly and unlawfully dispensing lysergic acid
21 ~~diethylamide shall be imprisoned not more than three years or fined not more~~

1 ~~than \$25,000.00, or both commits a Class E felony. A person knowingly and~~
2 ~~unlawfully selling lysergic acid diethylamide shall be imprisoned not more~~
3 ~~than five years or fined not more than \$25,000.00, or both commits a Class D~~
4 ~~felony.~~

5 (2) A person knowingly and unlawfully selling or dispensing lysergic
6 acid diethylamide in an amount consisting of 100 milligrams or more of one or
7 more preparations, compounds, mixtures, or substances containing lysergic
8 acid diethylamide shall be imprisoned not more than 10 years or fined not
9 more than \$100,000.00, or both commits a Class C felony.

10 (3) A person knowingly and unlawfully selling or dispensing lysergic
11 acid diethylamide in an amount consisting of one gram or more of one or more
12 preparations, compounds, mixtures, or substances containing lysergic acid
13 diethylamide shall be imprisoned not more than 20 years or fined not more
14 than \$500,000.00, or both. [Repealed.]

15 Sec. 10. 18 V.S.A. § 4233 is amended to read:

16 § 4233. HEROIN; FENTANYL

17 (a) Possession.

18 (1) A person knowingly and unlawfully possessing heroin, fentanyl, or
19 any combination of heroin and fentanyl shall be imprisoned not more than one
20 year or fined not more than \$2,000.00, or both commits a Class B
21 misdemeanor.

1 ~~(2) A person knowingly and unlawfully possessing heroin, fentanyl, or~~
2 ~~any combination of heroin and fentanyl in an amount consisting of 200 500~~
3 ~~milligrams or more of one or more preparations, compounds, mixtures, or~~
4 ~~substances containing heroin shall be imprisoned not more than five years or~~
5 ~~fined not more than \$100,000.00, or both commits a Class B misdemeanor.~~

6 (3) A person knowingly and unlawfully possessing heroin in an amount
7 consisting of one gram or more of one or more preparations, compounds,
8 mixtures, or substances containing heroin, fentanyl, or any combination of
9 heroin and fentanyl shall be imprisoned not more than 10 years or fined not
10 more than \$250,000.00, or both commits a Class D felony.

11 (4) A person knowingly and unlawfully possessing heroin in an amount
12 consisting of two 2.5 grams or more of one or more preparations, compounds,
13 mixtures, or substances containing heroin, fentanyl, or any combination of
14 heroin and fentanyl shall be imprisoned not more than 20 years or fined not
15 more than \$1,000,000.00, or both commits a Class C felony.

16 (b) Selling or dispensing.

17 (1) A person knowingly and unlawfully dispensing heroin, fentanyl, or
18 any combination of heroin and fentanyl shall be imprisoned not more than
19 three years or fined not more than \$75,000.00, or both commits a Class E
20 felony. A person knowingly and unlawfully selling heroin, fentanyl, or any

1 ~~combination of heroin and fentanyl shall be imprisoned not more than five~~
2 ~~years or fined not more than \$100,000.00, or both commits a Class D felony.~~

3 (2) ~~A person knowingly and unlawfully selling or dispensing heroin in~~
4 ~~an amount consisting of 200 milligrams or more of one or more preparations,~~
5 ~~compounds, mixtures, or substances containing heroin shall be imprisoned not~~
6 ~~more than 10 years or fined not more than \$250,000.00, or both. [Repealed.]~~

7 (3) ~~A person knowingly and unlawfully selling or dispensing heroin in~~
8 ~~an amount consisting of one gram or more of one or more preparations,~~
9 ~~compounds, mixtures, or substances containing heroin, fentanyl, or any~~
10 ~~combination of heroin and fentanyl shall be imprisoned not more than 20 years~~
11 ~~or fined not more than \$1,000,000.00, or both commits a Class C felony.~~

12 (c) ~~Trafficking. A person knowingly and unlawfully possessing heroin in~~
13 ~~an amount consisting of 3.5 5 grams or more of one or more preparations,~~
14 ~~compounds, mixtures, or substances containing heroin, fentanyl, or any~~
15 ~~combination of heroin and fentanyl with the intent to sell or dispense the~~
16 ~~heroin shall be imprisoned not more than 30 years or fined not more than~~
17 ~~\$1,000,000.00, or both commits a Class B felony. There shall be a permissive~~
18 ~~inference that a person who possesses heroin in an amount of 3.5 5 grams or~~
19 ~~more of one or more preparations, compounds, mixtures, or substances~~
20 ~~containing heroin, fentanyl, or any combination of heroin and fentanyl intends~~
21 ~~to sell or dispense the heroin, fentanyl, or any combination of heroin and~~

1 ~~fentanyl. The amount of possessed heroin, fentanyl, or any combination of~~
2 ~~heroin and fentanyl~~ under this subsection to sustain a charge of conspiracy
3 under 13 V.S.A. § 1404 shall be ~~no~~ not less than 10 grams in the aggregate.

4 (d) ~~Transportation into the State. In addition to any other penalties~~
5 ~~provided by law, a person knowingly and unlawfully transporting one gram or~~
6 ~~more of heroin into Vermont with the intent to sell or dispense the heroin shall~~
7 ~~be imprisoned not more than 10 years or fined not more than \$100,000.00, or~~
8 ~~both. [Repealed.]~~

9 (e) As used in this section, "knowingly" includes actual knowledge as well
10 as situations in which an individual subjectively believes there is a high
11 probability that a fact exists and takes deliberate actions to avoid learning of
12 that fact. An individual acts knowingly when the individual acts voluntarily
13 and consciously and not inadvertently, because of a mistake, or by accident.

14 Sec. 11. REPEAL

15 18 V.S.A. § 4233a (fentanyl) is repealed.

16 Sec. 12. 13 V.S.A. § 1404 is amended to read:

17 § 1404. CONSPIRACY

18 (a) A person is guilty of conspiracy if, with the purpose that an offense
19 listed in subsection (c) of this section be committed, that person agrees with
20 one or more persons to commit or cause the commission of that offense, and at
21 ~~least two of the co-conspirators are persons who are neither law enforcement~~

1 ~~officials acting in official capacity nor persons acting in cooperation with a law~~
2 enforcement official.

3 (b) No person shall be convicted of conspiracy unless a substantial overt
4 act in furtherance of the conspiracy is alleged and proved to have been done by
5 the defendant or by a co-conspirator, other than a law enforcement official
6 acting in an official capacity or a person acting in cooperation with a law
7 enforcement official, and subsequent to the defendant's entrance into the
8 conspiracy. Speech alone may not constitute an overt act.

9 (c) This section applies only to a conspiracy to commit or cause the
10 commission of one or more of the following offenses:

- 11 (1) murder in the first or second degree;
- 12 (2) arson under sections 501–504 and 506 of this title;
- 13 (3) sexual exploitation of children under sections 2822, 2823, and 2824
14 of this title;
- 15 (4) receiving stolen property under sections 2561–2564 of this title; or
- 16 (5) an offense involving the sale, delivery, manufacture, or cultivation
17 of a regulated drug or an offense under:
- 18 (A) 18 V.S.A. § 4230(c), relating to trafficking in cannabis;
- 19 (B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine;
- 20 (C) 18 V.S.A. § 4233(c), relating to trafficking in heroin, fentanyl, or
21 any combination of heroin and fentanyl,

1 ~~(D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing~~
2 of a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or
3 cocaine, or

4 ~~(E) 18 V.S.A. § 4234a(c), relating to trafficking in~~
5 methamphetamine; or

6 ~~(F) 18 V.S.A. § 4233a(b), relating to trafficking in fentanyl.~~

7 Sec. 13. 18 V.S.A. § 4234 is amended to read:

8 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

9 (a) Possession.

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

15 (B) A person knowingly and unlawfully possessing 224 milligrams
16 or less of buprenorphine shall not be punished in accordance with subdivision
17 (A) of this subdivision (1).

18 (2) A person knowingly and unlawfully possessing a depressant,
19 stimulant, or narcotic drug, ~~other than heroin or cocaine, consisting of 100~~
20 ~~times a benchmark unlawful dosage or its equivalent as determined by the~~

1 ~~Board of Health by rule shall be imprisoned not more than five years or fined~~
2 ~~not more than \$25,000.00, or both commits a Class E felony.~~

3 (3) A person knowingly and unlawfully possessing a depressant,
4 stimulant, or narcotic drug, other than heroin or cocaine, consisting of 1,000
5 times a benchmark unlawful dosage or its equivalent as determined by the
6 Board of Health by rule shall be imprisoned not more than 10 years or fined
7 not more than \$100,000.00, or both commits a Class D felony.

8 (4) A person knowingly and unlawfully possessing a depressant,
9 stimulant, or narcotic drug, other than heroin or cocaine, consisting of 10,000
10 times a benchmark unlawful dosage or its equivalent as determined by the
11 Board of Health by rule shall be imprisoned not more than 20 years or fined
12 not more than \$500,000.00, or both. [Repealed.]

13 (b) Selling or dispensing.

14 (1) A person knowingly and unlawfully dispensing a depressant,
15 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be
16 imprisoned not more than three years or fined not more than \$75,000.00, or
17 both commits a Class E felony. A person knowingly and unlawfully selling a
18 depressant, stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin,
19 shall be imprisoned not more than five years or fined not more than
20 ~~\$25,000.00, or both commits a Class D felony.~~

1 ~~(2) A person knowingly and unlawfully selling or dispensing a~~
2 ~~depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,~~
3 ~~consisting of 100 times a benchmark unlawful dosage or its equivalent as~~
4 ~~determined by the Board of Health by rule shall be imprisoned not more than~~
5 ~~10 years or fined not more than \$100,000.00, or both. [Repealed.]~~

6 (3) A person knowingly and unlawfully selling or dispensing a
7 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
8 consisting of 1,000 times a benchmark unlawful dosage or its equivalent as
9 determined by the Board of Health by rule shall be imprisoned not more than
10 20 years or fined not more than \$500,000.00, or both. [Repealed.]

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

12 (1) Except as provided in subdivision (2) of this subsection, a person
13 under 21 years of age who knowingly and unlawfully possesses 224
14 milligrams or less of buprenorphine commits a civil violation and shall be
15 subject to the provisions of section 4230b of this title.

16 (2) A person under 16 years of age who knowingly and unlawfully
17 possesses 224 milligrams or less of buprenorphine commits a delinquent act
18 and shall be subject to the provisions of section 4230j of this title.

19 ~~(d) Exceptions. This section shall not apply to heroin, fentanyl, or cocaine.~~

1 ~~Sec. 14. 2021 Acts and Resolves No. 46, Sec. 3 is amended to read:~~

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

3 ~~§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS~~

4 ~~(a) Possession.~~

5 ~~(1)(A) Except as provided by subdivision (B) of this subdivision (1), a~~
6 ~~person knowingly and unlawfully possessing a depressant, stimulant, or~~
7 ~~narcotic drug commits a Class B misdemeanor.~~

8 ~~(B) A person knowingly and unlawfully possessing 224 milligrams~~
9 ~~or less of buprenorphine shall not be punished in accordance with subdivision~~
10 ~~(A) of this subdivision (1).~~

11 * *

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

13 ~~(1) Except as provided in subdivision (2) of this subsection, a person~~
14 ~~under 21 years of age who knowingly and unlawfully possesses 224~~
15 ~~milligrams or less of buprenorphine commits a civil violation and shall be~~
16 ~~subject to the provisions of section 4230b of this title.~~

17 ~~(2) A person under 16 years of age who knowingly and unlawfully~~
18 ~~possesses 224 milligrams or less of buprenorphine commits a delinquent act~~
19 ~~and shall be subject to the provisions of section 4230j of this title. [Repealed.]~~

20

1 ~~Sec. 15-18 V.S.A. § 4234a is amended to read:~~

2 § 4234a. METHAMPHETAMINE

3 (a) Possession.

4 (1) A person knowingly and unlawfully possessing methamphetamine
5 ~~shall be imprisoned not more than one year or fined not more than \$2,000.00,~~
6 ~~or both commits a Class B misdemeanor.~~

7 (2) A person knowingly and unlawfully possessing methamphetamine in
8 an amount consisting of 2.5 grams or more of one or more preparations,
9 compounds, mixtures, or substances containing methamphetamine ~~shall be~~
10 ~~imprisoned not more than five years or fined not more than \$100,000.00, or~~
11 ~~both commits a Class D felony.~~

12 (3) A person knowingly and unlawfully possessing methamphetamine in
13 an amount consisting of 25 grams or more of one or more preparations,
14 compounds, mixtures, or substances containing methamphetamine ~~shall be~~
15 ~~imprisoned not more than 10 years or fined not more than \$250,000.00, or~~
16 ~~both commits a Class C felony.~~

17 (b) Selling and dispensing.

18 (1) A person knowingly and unlawfully dispensing methamphetamine
19 ~~shall be imprisoned not more than three years or fined not more than~~
20 ~~\$75,000.00, or both commits a Class E felony.~~ A person knowingly and

1 ~~unlawfully selling methamphetamine shall be imprisoned not more than five~~
2 ~~years or fined not more than \$100,000.00, or both commits a Class D felony.~~

3 (2) ~~A person knowingly and unlawfully selling or dispensing~~
4 ~~methamphetamine in an amount consisting of 2.5 grams or more of one or~~
5 ~~more preparations, compounds, mixtures, or substances containing~~
6 ~~methamphetamine shall be imprisoned not more than 10 years or fined not~~
7 ~~more than \$250,000.00, or both. [Repealed.]~~

8 (3) ~~A person knowingly and unlawfully selling or dispensing~~
9 ~~methamphetamine in an amount consisting of 25 grams or more of one or~~
10 ~~more preparations, compounds, mixtures, or substances containing~~
11 ~~methamphetamine shall be imprisoned not more than 20 years or fined not~~
12 ~~more than \$1,000,000.00, or both commits a Class C felony.~~

13 (c) ~~Trafficking. A person knowingly and unlawfully possessing~~
14 ~~methamphetamine in an amount consisting of 300 grams or more of one or~~
15 ~~more preparations, compounds, mixtures, or substances containing~~
16 ~~methamphetamine with the intent to sell or dispense the methamphetamine~~
17 ~~shall be imprisoned not more than 30 years or fined not more than~~
18 ~~\$1,000,000.00, or both commits a Class B felony. There shall be a permissive~~
19 ~~inference that a person who possesses methamphetamine in an amount~~
20 ~~consisting of 300 grams or more of one or more preparations, compounds,~~
21 ~~mixtures, or substances containing methamphetamine intends to sell or~~

1 ~~dispense the methamphetamine. The amount of possessed methamphetamine~~

2 under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404

3 shall be ~~no~~ not less than 800 grams in the aggregate

4 Sec. 16. 18 V.S.A. § 4234b is amended to read:

5 § 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

6 (a) Possession.

7 (1) No person shall knowingly and unlawfully possess a drug product
8 containing ephedrine base, pseudoephedrine base, or phenylpropanolamine
9 base with the intent to use the product as a precursor to manufacture
10 methamphetamine or another controlled substance.

11 (2) A person who violates this subsection shall:

12 (A) commits a Class B misdemeanor, if the offense involves
13 possession of less than nine grams of ephedrine base, pseudoephedrine base, or
14 phenylpropanolamine base, ~~be imprisoned not more than one year or fined not~~
15 ~~more than \$2,000.00, or both;~~

16 (B) commits a Class E felony if the offense involves possession of
17 nine or more grams of ephedrine base, pseudoephedrine base, or
18 phenylpropanolamine base, ~~be imprisoned not more than five years or fined~~
19 ~~not more than \$100,000.00, or both.~~

20

1 ~~Sec. 17-18 V.S.A. § 4235 is amended to read:~~

2 § 4235. HALLUCINOGENIC DRUGS

3 (a) "Dose" of a hallucinogenic drug means that minimum amount of a
4 hallucinogenic drug, not commonly used for therapeutic purposes, ~~which~~ that
5 causes a substantial hallucinogenic effect. The Board of Health shall adopt
6 rules ~~which~~ that establish doses for hallucinogenic drugs. The Board may
7 incorporate, where applicable, dosage calculations or schedules, whether
8 described as "dosage equivalencies" or otherwise, established by the federal
9 government.

10 (b) Possession.

11 (1) A person knowingly and unlawfully possessing a hallucinogenic
12 drug, other than lysergic acid diethylamide, ~~shall be imprisoned not more than~~
13 ~~one year or fined not more than \$2,000.00, or both~~ commits a Class B
14 misdemeanor.

15 (2) A person knowingly and unlawfully possessing 10 or more doses of
16 a hallucinogenic drug, other than lysergic acid diethylamide, ~~shall be~~
17 ~~imprisoned not more than five years or fined not more than \$25,000.00, or~~
18 ~~both~~ commits a Class A misdemeanor.

19 (3) A person knowingly and unlawfully possessing 100 or more doses
20 ~~of a hallucinogenic drug, other than lysergic acid diethylamide, shall be~~

1 ~~imprisoned not more than 10 years or fined not more than \$100,000.00, or~~
2 ~~both commits a Class D felony.~~

3 (4) A person knowingly and unlawfully possessing 1,000 or more doses
4 of a hallucinogenic drug, other than lysergic acid diethylamide, shall be
5 imprisoned not more than 15 years or fined not more than \$500,000.00, or
6 both commits a Class C felony.

7 (c) Selling or dispensing.

8 (1) A person knowingly and unlawfully dispensing a hallucinogenic
9 drug, other than lysergic acid diethylamide, shall be imprisoned not more than
10 three years or fined not more than \$25,000.00, or both commits a Class E
11 felony. A person knowingly and unlawfully selling a hallucinogenic drug,
12 other than lysergic acid diethylamide, shall be imprisoned not more than five
13 years or fined not more than \$25,000.00, or both commits a Class D felony.

14 (2) A person knowingly and unlawfully selling or dispensing 10 or more
15 doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be
16 imprisoned not more than 10 years or fined not more than \$100,000.00, or
17 both. [Repealed.]

18 (3) A person knowingly and unlawfully selling or dispensing 100 or
19 more doses of a hallucinogenic drug, other than lysergic acid diethylamide,
20 shall be imprisoned not more than 15 years or fined not more than
21 ~~\$500,000.00, or both commits a Class C felony.~~

1 ~~Sec. 18-18 V.S.A. § 4235a is amended to read:~~

2 § 4235a. ECSTASY

3 (a) Possession.

4 (1) A person knowingly and unlawfully possessing Ecstasy shall be
5 ~~imprisoned not more than one year or fined not more than \$2,000.00, or both~~
6 commits a Class B misdemeanor.

7 (2) A person knowingly and unlawfully possessing Ecstasy in an
8 amount consisting of two grams or more of one or more preparations,
9 compounds, mixtures, or substances containing Ecstasy shall be imprisoned
10 ~~not more than five years or fined not more than \$25,000.00, or both~~ commits a
11 Class E felony.

12 (3) A person knowingly and unlawfully possessing Ecstasy in an
13 amount consisting of 20 grams or more of one or more preparations,
14 compounds, mixtures, or substances containing Ecstasy shall be imprisoned
15 ~~not more than 10 years or fined not more than \$100,000.00, or both~~ commits a
16 Class D felony.

17 (4) A person knowingly and unlawfully possessing Ecstasy in an
18 amount consisting of seven ounces or more of one or more preparations,
19 compounds, mixtures, or substances containing Ecstasy shall be imprisoned
20 ~~not more than 20 years or fined not more than \$500,000.00, or both.~~

21 [Repeated.]

1 ~~(b) Selling or dispensing~~

2 ~~(1) A person knowingly and unlawfully dispensing Ecstasy shall be~~
3 ~~imprisoned not more than three years or fined not more than \$25,000.00, or~~
4 ~~both commits a Class E felony. A person knowingly and unlawfully selling~~
5 ~~Ecstasy shall be imprisoned not more than five years or fined not more than~~
6 ~~\$25,000.00, or both commits a Class D felony.~~

7 ~~(2) A person knowingly and unlawfully selling or dispensing Ecstasy in~~
8 ~~an amount consisting of two grams or more of one or more preparations,~~
9 ~~compounds, mixtures, or substances containing Ecstasy shall be imprisoned~~
10 ~~not more than 10 years or fined not more than \$100,000.00, or both.~~

11 ~~[Repealed.]~~

12 ~~(3) A person knowingly and unlawfully selling or dispensing Ecstasy in~~
13 ~~an amount consisting of 20 grams or more of one or more preparations,~~
14 ~~compounds, mixtures, or substances containing Ecstasy shall be imprisoned~~
15 ~~not more than 20 years or fined not more than \$500,000.00, or both commits a~~
16 ~~Class C felony.~~

17 Sec. 19. 18 V.S.A. § 4236 is amended to read:

18 § 4236. MANUFACTURE OR CULTIVATION

19 (a) A person knowingly and unlawfully manufacturing or cultivating a
20 regulated drug shall be imprisoned not more than 20 years or fined not more
21 ~~than \$1,000,000.00, or both commits a Class B felony.~~

1 ~~(b) This section shall not apply to the cultivation of cannabis.~~

2 Sec. 20. 18 V.S.A. § 4237 is amended to read:

3 § 4237. SELLING OR DISPENSING TO MINORS; SELLING ON

4 SCHOOL

5 GROUNDS

6 (a) Dispensing regulated drugs to minors. A person knowingly and
7 unlawfully dispensing any regulated drug to a minor who is at least three years
8 that person's junior ~~shall be sentenced to a term of imprisonment of not more~~
9 ~~than five years~~ commits a Class E felony.

10 (b) Sale of regulated drugs. A person knowingly and unlawfully selling
11 any regulated drug to a minor shall, in addition to any other penalty, be
12 sentenced to a term of imprisonment of not more than ~~10~~ 5 years.

13 (c) Selling on school grounds. No person shall knowingly and unlawfully:

14 (1) dispense or sell a regulated drug to any person on a school bus or on
15 real property owned by a public or private elementary, secondary, or
16 vocational school;

17 (2) sell a regulated drug to any person on real property abutting real
18 property owned by a public or private elementary, secondary, or vocational
19 school; or

20 (3) dispense a regulated drug to any person in public view on real
21 ~~property abutting real property owned by a school.~~

1 ~~(d) Abutting school property. The selling or dispensing of a regulated drug~~
2 to a person on property abutting school property is a violation under this
3 section only if it occurs within 500 feet of the school property. Property shall
4 be considered abutting school property if:

5 (1) it shares a boundary with school property; or

6 (2) it is adjacent to school property and is separated only by a river,
7 stream, or public highway.

8 (e) Penalty. A person who violates subsection (c) of this section shall, in
9 addition to any other penalty, be sentenced to a term of imprisonment of not
10 more than ~~10~~ 5 years.

11 (f) Definitions. As used in this section:

12 (1) "Minor" means a person under ~~the~~ the age of 18 years of age.

13 (2) "Owned by a school" means owned, leased, controlled, or
14 subcontracted by a school and used frequently by students for educational or
15 recreational activities.

16 Sec. 21. 18 V.S.A. § 4249 is amended to read:

17 § 4249. TRANSPORTATION OF ALCOHOL, TOBACCO, OR
18 REGULATED DRUGS INTO PLACES OF DETENTION

19 (a) No person shall knowingly carry or introduce or cause to be carried or
20 introduced into a lockup, jail, prison, or correctional facility:

21 ~~(1) alcohol or alcoholic beverages,~~

1 ~~(2) cannabis;~~

2 (3) a regulated drug, other than cannabis, as defined in section 4201 of
3 this title, except upon the prescription or direction of a practitioner as that term
4 is defined in 26 V.S.A. chapter 36; or

5 (4) tobacco or tobacco products, except that an employee may possess
6 or store tobacco or tobacco products in a locked automobile parked on the
7 correctional facility grounds, store tobacco or tobacco products in a secure
8 place within the correctional facility ~~which~~ that is designated for storage of
9 employee tobacco, and possess tobacco or tobacco products in a designated
10 smoking area.

11 (b) A person who violates subdivision (a)(1) of this section ~~shall be~~
12 ~~imprisoned not more than three months or fined not more than \$300.00, or~~
13 ~~both~~ commits a Class D misdemeanor.

14 (c) A person who violates subdivision (a)(2) of this section ~~shall be~~
15 ~~imprisoned not more than six months or fined not more than \$500.00, or both~~
16 commits a Class D misdemeanor.

17 (d) A person who violates subdivision (a)(3) of this section ~~shall be~~
18 ~~imprisoned not more than one year or fined not more than \$1,000.00, or both~~
19 commits a Class B misdemeanor.

20

1 ~~Sec. 22. 18 V.S.A. § 4250 is amended to read:~~

2 § 4250. SELLING OR DISPENSING A REGULATED DRUG WITH
3 DEATH RESULTING

4 (a) If the death of a person results from the selling or dispensing of a
5 regulated drug to the person in violation of this chapter, the person convicted
6 of the violation ~~shall be imprisoned not less than two years nor more than 20~~
7 years commits a Class B felony.

8 (b) This section shall apply ~~only~~ if the person's use of the regulated drug is
9 the proximate cause of ~~his or her~~ the person's death.

10 Sec. 23. 18 V.S.A. § 4252 is amended to read:

11 § 4252. PENALTIES FOR DISPENSING OR SELLING REGULATED
12 DRUGS IN A DWELLING

13 (a) No person shall knowingly permit a dwelling, building, or structure
14 owned by or under the control of the person to be used for the purpose of
15 illegally dispensing or selling a regulated drug.

16 (b) A landlord shall be in violation of subsection (a) of this section only if
17 the landlord knew at the time ~~he or she~~ the landlord signed the lease agreement
18 that the tenant intended to use the dwelling, building, or structure for the
19 ~~purpose of illegally dispensing or selling a regulated drug.~~

1 ~~(a) A person who violates this section shall be imprisoned not more than~~
2 ~~two years or fined not more than \$1,000.00 or both commits a Class A~~
3 ~~misdemeanor.~~

4 Sec. 24. 18 V.S.A. § 4476 is amended to read:

5 § 4476. OFFENSES AND PENALTIES

6 (a) A person who sells drug paraphernalia to a person under 18 years of
7 age shall be imprisoned for not more than two years or fined not more than
8 \$2,000.00, or both commits a Class C misdemeanor.

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

12 Sec. 25. EFFECTIVE DATES

13 (a) Except for Sec. 14, this act shall take effect on passage.

14 (b) Sec. 14 (amending 2021 Acts and Resolves No. 46, Sec. 3) shall take
15 ~~effect on July 1, 2022.~~

Sec. 1. 18 V.S.A. § 4215a is amended to read:

§ 4215a. SALE OF SCHEDULE V DRUGS

*(a) A duly licensed pharmacist may sell and dispense schedule V drugs
only upon written prescription or oral prescription ~~which~~ that is promptly
~~reduced to writing by a pharmacist, of a licensed physician, dentist, or~~*

~~veterinarian, dated and signed by the person prescribing or, if an oral prescription, by the pharmacist on the date when written.~~

~~* * *~~

~~(d) For a first offense, a A person knowingly and unlawfully violating the provisions of this section may be imprisoned for not more than six months or fined not more than \$500.00, or both. For a second or subsequent offense, a person knowingly and unlawfully violating the provisions of this section may be imprisoned for not more than two years or fined not more than \$2,000.00, or both commits a Class C misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$500.00.~~

~~Sec. 2. 18 V.S.A. § 4223 is amended to read:~~

~~§ 4223. FRAUD OR DECEIT~~

~~* * *~~

~~(i) A person who violates this section shall be imprisoned not more than two years and one day or fined not more than \$5,000.00, or both commits a Class A misdemeanor.~~

~~Sec. 3. 18 V.S.A. § 4228 is amended to read:~~

~~§ 4228. UNLAWFUL MANUFACTURE, DISTRIBUTION, DISPENSING,
OR SALE OF A NONCONTROLLED DRUG OR SUBSTANCE~~

~~(a) It is unlawful for any person to knowingly dispense, manufacture, process, package, distribute, or sell or attempt to dispense, manufacture,~~

~~process, package, distribute, or sell a noncontrolled drug or substance upon either:~~

~~(1) the express or implied representation that the drug or substance is a controlled drug; or~~

~~(2) the express or implied representation that the drug or substance is of such nature or appearance that the dispensee or purchaser will be able to dispense or sell the drug or substance as a controlled drug.~~

~~(b) For the purposes of this section, a “controlled” drug or substance shall mean those drugs or substances listed under schedules I through V in the federal Controlled Substances Act, 21 U.S.C. § 801 et seq. as amended.~~

~~* * *~~

~~(f) A person convicted of violating this section shall be subject to imprisonment for a term of up to one year or a fine of up to \$5,000.00, or both commits a Class B misdemeanor. If the violation of this section involves dispensing, distributing, or selling to a person under the age of 21 years of age, the person shall be subject to a term of imprisonment of not more than two years or fined up to \$10,000.00, or both commits a Class A misdemeanor.~~

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

~~§ 4230. CANNABIS~~

~~(a) Possession and Cultivation.~~

~~(1) No person shall knowingly and unlawfully possess more than one ounce of cannabis or more than five grams of hashish or cultivate more than two mature cannabis plants or four immature cannabis plants. A person who violates this subdivision shall be assessed a civil penalty as follows:~~

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

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

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

~~(2)(A) No person shall knowingly and unlawfully possess two ounces or more of cannabis or ten grams or more of hashish or more than three mature cannabis plants or six immature cannabis plants. For a first offense under this subdivision (2), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00 or both commits a Class C misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$500.00.~~

~~(B) A person convicted of a second or subsequent offense of violating subdivision (A) of this subdivision (2) shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. [Repeated.]~~

~~(C) Upon an adjudication of guilt for a first or second an offense under this subdivision (2), the court may defer sentencing as provided in 13 V.S.A. § 7041, except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within ~~two years~~ six months from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening, which may be considered at sentencing in the same manner as a presentence report.~~

~~(3) A person knowingly and unlawfully possessing eight ounces of cannabis or 1.4 ounces of hashish or knowingly and unlawfully cultivating more than four mature cannabis plants or eight immature cannabis plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both commits a Class A misdemeanor.~~

~~(4) A person knowingly and unlawfully possessing more than one pound of cannabis or more than 2.8 ounces of hashish or knowingly and unlawfully cultivating more than six mature cannabis plants or 12 immature cannabis plants shall be imprisoned not more than five years or fined not more than \$10,000.00, or both commits a Class E felony.~~

~~(5) A person knowingly and unlawfully possessing more than 10 pounds of cannabis or more than one pound of hashish or knowingly and unlawfully cultivating more than 12 mature cannabis plants or 24 immature cannabis~~

~~plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both commits a Class D felony.~~

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

~~(7) The amounts of cannabis in this subsection shall not include cannabis cultivated, harvested, and stored in accordance with section 4230e of this title.~~

~~(b) Selling or dispensing.~~

~~(1) A person knowingly and unlawfully selling cannabis or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both commits a Class B misdemeanor.~~

~~(2) A person knowingly and unlawfully selling or dispensing more than one ounce of cannabis or five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class A misdemeanor.~~

~~(3) A person knowingly and unlawfully selling or dispensing one pound or more of cannabis or 2.8 ounces or more of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both commits a Class D felony.~~

~~(4) A person 21 years of age or older may dispense one ounce or less of cannabis or five grams or less of hashish to another person who is 21 years of age or older, provided that the dispensing is not advertised or promoted to the public.~~

~~(c) Trafficking. A person knowingly and unlawfully possessing 50 pounds or more of cannabis or five pounds or more of hashish with the intent to sell or dispense the cannabis or hashish shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both commits a Class C felony. There shall be a permissive inference that a person who possesses 50 pounds or more of cannabis or five pounds or more of hashish intends to sell or dispense the cannabis or hashish.~~

~~(d) ~~Cannabis-infused~~ Cannabis-infused products. Only the portion of a cannabis-infused product that is attributable to cannabis shall count toward the possession limits of this section. The weight of cannabis that is attributable to cannabis-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis).~~

~~Sec. 5. 18 V.S.A. § 4230f is amended to read:~~

~~§ 4230f. DISPENSING CANNABIS TO A PERSON UNDER 21 YEARS
OF AGE; CRIMINAL OFFENSE~~

~~(a) No person shall:~~

~~(1) dispense cannabis to a person under 21 years of age; or~~

~~(2) knowingly enable the consumption of cannabis by a person under
21 years of age.~~

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

~~(c) Except as provided in subsection (d) of this section, a person who
violates subsection (a) of this section shall be imprisoned not more than two
years or fined not more than \$2,000.00, or both commits a Class A
misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this
section shall not be fined more than \$2,000.00.~~

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

~~(a)(1) Subsections (a) (d) of this section shall not apply to a person under 21 years of age who dispenses cannabis to a person under 21 years of age or who knowingly enables the consumption of cannabis by a person under 21 years of age.~~

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

~~(3) A person 18, 19, or 20 years of age who knowingly dispenses to a person under 18 years of age who is at least three years that person's junior shall be sentenced to a term of imprisonment of not more than five years in accordance with section 4237 of this title commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined.~~

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

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

~~***~~

~~Sec. 6. 18 V.S.A. § 4230h is amended to read:~~

~~§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE~~

~~PROHIBITED~~

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

~~(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both commits a Class A misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both commits a Class E felony. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$5,000.00.~~

~~Sec. 7. 18 V.S.A. § 4231 is amended to read:~~

~~§ 4231. COCAINE~~

~~(a) Possession.~~

~~(1) A person knowingly and unlawfully possessing cocaine shall be imprisoned not more than one year or fined not more than \$2,000.00, or both commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.~~

~~(2) A person knowingly and unlawfully possessing cocaine in an amount consisting of 2.5 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class E felony.~~

~~(3) A person knowingly and unlawfully possessing cocaine in an amount consisting of one ounce or more of one or more preparations, compounds, mixtures, or substances containing cocaine shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both commits a Class D felony.~~

~~(4) [Repealed.]~~

~~(b) Selling or dispensing.~~

~~(1) A person knowingly and unlawfully dispensing cocaine shall be imprisoned not more than three years or fined not more than \$75,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling~~

~~cocaine shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class D felony.~~

~~(2) A person knowingly and unlawfully selling or dispensing cocaine in an amount consisting of 2.5 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.~~

~~[Repealed.]~~

~~(3) A person knowingly and unlawfully selling or dispensing cocaine in an amount consisting of one ounce or more of one or more preparations, compounds, mixtures, or substances containing cocaine shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both commits a Class C felony.~~

~~(c) Trafficking.~~

~~(1) A person knowingly and unlawfully possessing cocaine in an amount consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine with the intent to sell or dispense the cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both commits a Class B felony. There shall be a permissive inference that a person who possesses cocaine in an amount consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine intends to sell or dispense the cocaine. The~~

~~amount of possessed cocaine under this subdivision to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 400 grams in the aggregate.~~

~~(2) A person knowingly and unlawfully possessing crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine with the intent to sell or dispense the crack cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine intends to sell or dispense the crack cocaine. [Repealed.]~~

Sec. 8. 18 V.S.A. § 4232 is amended to read:

§ 4232. LSD

(a) Possession.

~~(1) A person knowingly and unlawfully possessing lysergic acid diethylamide shall be imprisoned not more than one year or fined not more than \$2,000.00, or both commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.~~

~~(2) A person knowingly and unlawfully possessing lysergic acid diethylamide in an amount consisting of 100 milligrams or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class E felony.~~

~~(3) A person knowingly and unlawfully possessing lysergic acid diethylamide in an amount consisting of one gram or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both commits a Class D felony.~~

~~(4) A person knowingly and unlawfully possessing lysergic acid diethylamide in an amount consisting of 10 grams or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. [Repealed.]~~

~~(b) Selling or dispensing.~~

~~(1) A person knowingly and unlawfully dispensing lysergic acid diethylamide shall be imprisoned not more than three years or fined not more than \$25,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling lysergic acid diethylamide shall be imprisoned not more~~

~~than five years or fined not more than \$25,000.00, or both commits a Class D felony.~~

~~(2) A person knowingly and unlawfully selling or dispensing lysergic acid diethylamide in an amount consisting of 100 milligrams or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both commits a Class C felony.~~

~~(3) A person knowingly and unlawfully selling or dispensing lysergic acid diethylamide in an amount consisting of one gram or more of one or more preparations, compounds, mixture, or substances containing lysergic acid diethylamide shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. [Repealed.]~~

Sec. 9. 18 V.S.A. § 4233 is amended to read:

§ 4233. HEROIN

(a) Possession.

~~(1) A person knowingly and unlawfully possessing heroin shall be imprisoned not more than one year or fined not more than \$2,000.00, or both commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 52, a person who violates this section shall not be fined more than \$2,000.00.~~

~~(2) A person knowingly and unlawfully possessing heroin in an amount consisting of 200 milligrams or more of one or more preparations, compounds,~~

~~mixtures, or substances containing heroin shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class A misdemeanor.~~

~~(3) A person knowingly and unlawfully possessing heroin in an amount consisting of one gram or more of one or more preparations, compounds, mixtures, or substances containing heroin shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both commits a Class D felony.~~

~~(4) A person knowingly and unlawfully possessing heroin in an amount consisting of two grams or more of one or more preparations, compounds, mixtures, or substances containing heroin shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both commits a Class C felony.~~

~~(b) Selling or dispensing.~~

~~(1) A person knowingly and unlawfully dispensing heroin shall be imprisoned not more than three years or fined not more than \$75,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling heroin shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class D felony.~~

~~(2) A person knowingly and unlawfully selling or dispensing heroin in an amount consisting of 200 milligrams or more of one or more preparations,~~

~~compounds, mixtures, or substances containing heroin shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both. [Repealed]~~

~~(b) A person knowingly and unlawfully selling or dispensing heroin in an amount consisting of one gram or more of one or more preparations, compounds, mixtures, or substances containing heroin shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both commits a Class C felony.~~

~~(c) Trafficking. A person knowingly and unlawfully possessing heroin in an amount consisting of 3.5 grams or more of one or more preparations, compounds, mixtures, or substances containing heroin with the intent to sell or dispense the heroin shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both commits a Class B felony. There shall be a permissive inference that a person who possesses heroin in an amount of 3.5 grams or more of one or more preparations, compounds, mixtures, or substances containing heroin intends to sell or dispense the heroin. The amount of possessed heroin under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be no less than 10 grams in the aggregate.~~

~~(d) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting one gram or more of heroin into Vermont with the intent to sell or dispense the heroin shall~~

~~be imprisoned not more than 10 years or fined not more than \$100,000.00, or both - [Repealed]~~

Sec. 10. 18 V.S.A. § 4233a is amended to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

~~*(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class D felony.*~~

~~*(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both commits a Class C felony.*~~

~~*(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both commits a Class B felony.*~~

~~(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both commits a Class D felony.~~

~~(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both commits a Class B felony. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.~~

~~(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both commits a Class C Felony.~~

~~Sec. 11. 18 V.S.A. § 4234 is amended to read:~~

~~§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS~~

~~(a) Possession.~~

~~(1)(A) Except as provided by subdivision (B) of this subdivision (1), a 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 commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.~~

~~(B) A person knowingly and unlawfully possessing 224 milligrams or less of buprenorphine shall not be punished in accordance with subdivision (A) of this subdivision (1).~~

~~(2) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the Board of Health by rule shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class E felony.~~

~~(3) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the~~

~~Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both commits a Class D felony.~~

~~(4) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 10,000 times a benchmark unlawful dosage or its equivalent as determined by the Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. [Repealed.]~~

~~(b) Selling or dispensing~~

~~(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than three years or fined not more than \$75,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class D felony.~~

~~(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both. [Repealed.]~~

~~(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.~~
~~[Repealed.]~~

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

~~(1) Except as provided in subdivision (2) of this subsection, a person under 21 years of age who knowingly and unlawfully possesses 224 milligrams or less of buprenorphine commits a civil violation and shall be subject to the provisions of section 4230b of this title.~~

~~(2) A person under 16 years of age who knowingly and unlawfully possesses 224 milligrams or less of buprenorphine commits a delinquent act and shall be subject to the provisions of section 4230j of this title. [Repealed.]~~

Sec. 12. 18 V.S.A. § 4234a is amended to read:

§ 4234a. METHAMPHETAMINE

(a) Possession.

~~(1) A person knowingly and unlawfully possessing methamphetamine shall be imprisoned not more than one year or fined not more than \$2,000.00, or both commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.~~

~~(2) A person knowingly and unlawfully possessing methamphetamine in an amount consisting of 2.5 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class D felony.~~

~~(3) A person knowingly and unlawfully possessing methamphetamine in an amount consisting of 25 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both commits a Class C felony.~~

~~(b) Selling and dispensing.~~

~~(1) A person knowingly and unlawfully dispensing methamphetamine shall be imprisoned not more than three years or fined not more than \$75,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling methamphetamine shall be imprisoned not more than five years or fined not more than \$100,000.00, or both commits a Class D felony.~~

~~(2) A person knowingly and unlawfully selling or dispensing methamphetamine in an amount consisting of 2.5 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both. [Repealed.]~~

~~(3) A person knowingly and unlawfully selling or dispensing methamphetamine in an amount consisting of 25 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both commits a Class C felony.~~

~~(c) Trafficking. A person knowingly and unlawfully possessing methamphetamine in an amount consisting of 300 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine with the intent to sell or dispense the methamphetamine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both commits a Class B felony. There shall be a permissive inference that a person who possesses methamphetamine in an amount consisting of 300 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine intends to sell or dispense the methamphetamine. The amount of possessed methamphetamine under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be ~~no~~ not less than 800 grams in the aggregate~~

~~Sec. 13. 18 V.S.A. § 4234b is amended to read:~~

~~§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE~~

~~(a) Possession.~~

~~(1) No person shall knowingly and unlawfully possess a drug product containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base with the intent to use the product as a precursor to manufacture methamphetamine or another controlled substance.~~

~~(2) A person who violates this subsection shall:~~

~~(A) commits a Class B misdemeanor if the offense involves possession of less than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base, be imprisoned not more than one year or fined not more than \$2,000.00, or both; however, notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00;~~

~~(B) commits a Class E felony if the offense involves possession of nine or more grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base, be imprisoned not more than five years or fined not more than \$100,000.00, or both.~~

~~***~~

~~Sec. 14. 18 V.S.A. § 4235 is amended to read:~~

~~§ 4235. HALLUCINOGENIC DRUGS~~

~~(a) “Dose” of a hallucinogenic drug means that minimum amount of a hallucinogenic drug, not commonly used for therapeutic purposes, which that causes a substantial hallucinogenic effect. The Board of Health shall adopt rules which that establish doses for hallucinogenic drugs. The Board may~~

~~incorporate, where applicable, dosage calculations or schedules, whether described as “dosage equivalencies” or otherwise, established by the federal government.~~

~~(b) Possession.~~

~~(1) A person knowingly and unlawfully possessing a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.~~

~~(2) A person knowingly and unlawfully possessing 10 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class A misdemeanor.~~

~~(3) A person knowingly and unlawfully possessing 100 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both commits a Class D felony.~~

~~(4) A person knowingly and unlawfully possessing 1,000 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both commits a Class C felony.~~

~~(a) Selling or dispensing~~

~~(1) A person knowingly and unlawfully dispensing a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than three years or fined not more than \$25,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class D felony.~~

~~(2) A person knowingly and unlawfully selling or dispensing 10 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both. [Repealed.]~~

~~(3) A person knowingly and unlawfully selling or dispensing 100 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both commits a Class C felony.~~

~~Sec. 15. 18 V.S.A. § 4235a is amended to read:~~

~~§ 4235a. ECSTASY~~

~~(a) Possession.~~

~~(1) A person knowingly and unlawfully possessing Ecstasy shall be imprisoned not more than one year or fined not more than \$2,000.00, or both~~

~~commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$2,000.00.~~

~~(2) A person knowingly and unlawfully possessing Ecstasy in an amount consisting of two grams or more of one or more preparations, compounds, mixtures, or substances containing Ecstasy shall be imprisoned not more than five years or fined not more than \$25,000.00, or both commits a Class E felony.~~

~~(3) A person knowingly and unlawfully possessing Ecstasy in an amount consisting of 20 grams or more of one or more preparations, compounds, mixtures, or substances containing Ecstasy shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both commits a Class D felony.~~

~~(4) A person knowingly and unlawfully possessing Ecstasy in an amount consisting of seven ounces or more of one or more preparations, compounds, mixtures, or substances containing Ecstasy shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. [Repeated.]~~

~~(b) Selling or dispensing.~~

~~(1) A person knowingly and unlawfully dispensing Ecstasy shall be imprisoned not more than three years or fined not more than \$25,000.00, or both commits a Class E felony. A person knowingly and unlawfully selling~~

~~(a) Dispensing regulated drugs to minors. A person knowingly and unlawfully dispensing any regulated drug to a minor who is at least three years that person's junior shall be sentenced to a term of imprisonment of not more than five years commits a Class E felony. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined.~~

~~(b) Sale of regulated drugs. A person knowingly and unlawfully selling any regulated drug to a minor shall, in addition to any other penalty, be sentenced to a term of imprisonment of not more than ~~10~~ 5 years.~~

~~(c) Selling on school grounds. No person shall knowingly and unlawfully:~~

~~(1) dispense or sell a regulated drug to any person on a school bus or on real property owned by a public or private elementary, secondary, or vocational school;~~

~~(2) sell a regulated drug to any person on real property abutting real property owned by a public or private elementary, secondary, or vocational school; or~~

~~(3) dispense a regulated drug to any person in public view on real property abutting real property owned by a school.~~

~~(d) Abutting school property. The selling or dispensing of a regulated drug to a person on property abutting school property is a violation under this section only if it occurs within 500 feet of the school property. Property shall be considered abutting school property if:~~

~~(1) it shares a boundary with school property; or~~

~~(2) it is adjacent to school property and is separated only by a river, stream, or public highway.~~

~~(e) Penalty. A person who violates subsection (c) of this section shall, in addition to any other penalty, be sentenced to a term of imprisonment of not more than ~~10~~ 5 years.~~

~~(f) Definitions. As used in this section:~~

~~(1) "Minor" means a person under ~~the age of~~ 18 years of age.~~

~~(2) "Owned by a school" means owned, leased, controlled, or subcontracted by a school and used frequently by students for educational or recreational activities.~~

~~Sec. 18. 18 V.S.A. § 4249 is amended to read:~~

~~§ 4249. TRANSPORTATION OF ALCOHOL, TOBACCO, OR~~

~~REGULATED DRUGS INTO PLACES OF DETENTION~~

~~(a) No person shall knowingly carry or introduce or cause to be carried or introduced into a lockup, jail, prison, or correctional facility:~~

~~(1) alcohol or alcoholic beverages;~~

~~(2) cannabis;~~

~~(3) a regulated drug, other than cannabis, as defined in section 4201 of this title, except upon the prescription or direction of a practitioner as that term is defined in 26 V.S.A. chapter 36, or~~

~~(1) tobacco or tobacco products, except that an employee may possess or store tobacco or tobacco products in a locked automobile parked on the correctional facility grounds, store tobacco or tobacco products in a secure place within the correctional facility which that is designated for storage of employee tobacco, and possess tobacco or tobacco products in a designated smoking area.~~

~~(b) A person who violates subdivision (a)(1) of this section shall be imprisoned not more than three months or fined not more than \$300.00, or both commits a Class D misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$300.00.~~

~~(c) A person who violates subdivision (a)(2) of this section shall be imprisoned not more than six months or fined not more than \$500.00, or both commits a Class D misdemeanor.~~

~~(d) A person who violates subdivision (a)(3) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both commits a Class B misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$1,000.00.~~

* * *

Sec. 19. 18 V.S.A. § 4250 is amended to read:

§ 4250. SELLING OR DISPENSING A REGULATED DRUG WITH

~~DEATH RESULTING~~

~~(a) If the death of a person results from the selling or dispensing of a regulated drug to the person in violation of this chapter, the person convicted of the violation shall be imprisoned not less than two years nor more than 20 years commits a Class B felony. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined.~~

~~(b) This section shall apply only if the person's use of the regulated drug is the proximate cause of his or her the person's death.~~

~~Sec. 20. 18 V.S.A. § 4252 is amended to read:~~

~~§ 4252. PENALTIES FOR DISPENSING OR SELLING REGULATED~~

~~DRUGS IN A DWELLING~~

~~(a) No person shall knowingly permit a dwelling, building, or structure owned by or under the control of the person to be used for the purpose of illegally dispensing or selling a regulated drug.~~

~~(b) A landlord shall be in violation of subsection (a) of this section only if the landlord knew at the time he or she the landlord signed the lease agreement that the tenant intended to use the dwelling, building, or structure for the purpose of illegally dispensing or selling a regulated drug.~~

~~(c) A person who violates this section shall be imprisoned not more than two years or fined not more than \$1,000.00 or both commits a Class A misdemeanor. Notwithstanding 13 V.S.A. § 53, a person who violates this section shall not be fined more than \$1,000.00.~~

~~See 21-18 VS 4. § 4256 is added to read:~~

~~§ 4256. DRUG USE STANDARDS ADVISORY BOARD~~

~~(a) There is hereby created the Drug Use Standards Advisory Board established within the Vermont Sentencing Commission composed of experts in the fields of general and behavioral mental health care, substance use disorder treatment, and drug user communities.~~

~~(b) The primary objective of the Board shall be to determine, for each regulated and unregulated drug, the benchmark personal use dosage and the benchmark personal use supply. The benchmarks determined pursuant to this subsection shall be determined with a goal of preventing and reducing the criminalization of personal drug use. The Board may provide additional recommendations to the Commission and the General Assembly regarding how to transition from a criminal justice approach to a public health approach to addressing drug possession.~~

~~(c) The Board shall be convened and chaired by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs. After receiving nominations from harm reduction service providers, the Deputy Commissioner shall appoint three consumer representatives to the Board who have lived experience in drug use and consumption practices. The Deputy Commissioner and the three consumer representatives shall appoint the remaining Board members as follows.~~

~~(1) two representatives from harm reduction service providers;~~

~~(2) an expert on medication-assisted treatment programs;~~

~~(3) an expert on human behavior and addiction;~~

~~(4) an expert on substance use disorder treatment;~~

~~(5) an expert on legal reform from the University of Vermont Law School Center for Justice Reform; and~~

~~(6) an academic researcher specializing in drug use or drug policy.~~

~~(d) The Board shall have the administrative assistance of the Division of Alcohol and Drug Abuse Programs.~~

~~(e) Members of the Board shall be entitled to per diems pursuant to 32 V.S.A. § 1010 for not more than three meetings to develop initial recommendations required by subsection (f) of this section and once annually thereafter.~~

~~(f) On or before September 1, 2022, the Board shall provide to the Commission and the General Assembly:~~

~~(1) the recommended quantities for both the benchmark personal use dosage and benchmark personal use supply for each category of regulated drug listed in subdivision 4201(29) of this title; and~~

~~(2) a recommendation as to whether 18 V.S.A. § 4233 (heroin) and 18 V.S.A. § 4254a (fentanyl) should be combined into one statute.~~

~~(g) On or before December 1, 2022, based on the benchmark personal use dosage and benchmark personal use supply recommendations of the Board, the Commission shall make recommendations to the General Assembly regarding adjustments in the amounts for possession, dispensing, and sale of regulated drugs under this chapter and a proposal for combining the heroin and fentanyl statutes if recommended by the Board.~~

~~(h) Starting in 2023, the Board shall convene at least one time per year to review benchmarks established pursuant to this section and recommend any necessary amendments to the Commission and the General Assembly.~~

~~(i) As used in this section:~~

~~(1) “Benchmark personal use dosage” means the quantity of a drug commonly consumed over a 24-hour period for any therapeutic, medicinal, or recreational purpose.~~

~~(2) “Benchmark personal use supply” means the quantity of a drug commonly possessed for consumption by an individual for any therapeutic, medicinal, or recreational purpose.~~

~~Sec. ~~21~~22. SUNSET OF DRUG USE STANDARDS ADVISORY BOARD~~

~~18 V.S.A. § 4256 (Drug Use Standards Advisory Board) is repealed on July 1, 2027.~~

~~Sec. ~~22~~23. 18 V.S.A. § 4476 is amended to read:~~

~~§ 4476. OFFENSES AND PENALTIES~~

~~(a) A person who sells drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years or fined not more than \$2,000.00, or both commits a Class C misdemeanor.~~

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

Sec. 24. EFFECTIVE DATES

~~(a) This section and Sec. 21 shall take effect on July 1, 2022.~~

~~(b) All remaining sections shall take effect on July 1, 2023.~~

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

§ 4230. CANNABIS

* * *

~~(d) *Cannabis-infused Cannabis-infused* products. Only the portion of a cannabis-infused product that is attributable to cannabis shall count toward the possession limits of this section. The weight of cannabis that is attributable to cannabis-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis).~~

Sec. 2. 18 V.S.A. § 4231 is amended to read:

§ 4231. COCAINE

* * *

(c) Trafficking.

~~(1) Trafficking. A person knowingly and unlawfully possessing cocaine in an amount consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine with the intent to sell or dispense the cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses cocaine in an amount consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine intends to sell or dispense the cocaine. The amount of possessed cocaine under this subdivision to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be ~~no~~ not less than 400 grams in the aggregate.~~

~~(2) A person knowingly and unlawfully possessing crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine with the intent to sell or dispense the crack cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine intends to sell or dispense the crack cocaine. [Repealed.]~~

Sec. 3. 13 V.S.A. § 5453 is added to read:

§ 5453. DRUG USE STANDARDS ADVISORY BOARD

(a) There is hereby created the Drug Use Standards Advisory Board established within the Vermont Sentencing Commission composed of experts in the fields of general and mental health care, substance use disorder treatment, and drug user communities.

(b) The primary objective of the Board shall be to determine, for each regulated and unregulated drug, the benchmark personal use dosage and the benchmark personal use supply. The benchmarks determined pursuant to this subsection shall be determined with a goal of preventing and reducing the criminalization of personal drug use. The Board may provide additional recommendations to the Commission and the General Assembly regarding how to transition from a criminal justice approach to a public health approach to addressing drug possession.

(c)(1) The Board shall be convened and chaired by the Deputy Commissioner of Alcohol and Drug Abuse Programs. After receiving nominations from harm reduction service providers, the Deputy Commissioner shall appoint three consumer representatives to the Board who have lived experience in drug use and consumption practices. The Deputy Commissioner, after consulting with the three consumer representatives, shall strive for geographic diversity in appointing the remaining Board members as follows:

(A) two representatives from harm reduction service providers;

(B) an expert on medication-assisted treatment programs;

(C) an expert on human behavior and addiction;

(D) an expert on substance use disorder treatment;

(E) an expert on legal reform from the Vermont Law School Center
for Justice Reform;

(F) an academic researcher specializing in drug use or drug policy;

and

(G) a representative of law enforcement.

(2) The Chief Prevention Officer shall be a nonvoting member of the
Board.

(d) The Board shall have the administrative assistance of the Division of
Alcohol and Drug Abuse Programs.

(e) Members of the Board shall be entitled to per diems pursuant to
32 V.S.A. § 1010 for not more than three meetings to develop initial
recommendations required by subsection (f) of this section and once annually
thereafter.

(f) On or before September 1, 2022, the Board shall provide to the
Commission and the General Assembly:

(1) the recommended quantities for both the benchmark personal use dosage and benchmark personal use supply for each category of regulated drug listed in 18 V.S.A. § 4201(29); and

(2) a recommendation as to whether 18 V.S.A. § 4233 (heroin) and 18 V.S.A. § 4233a (fentanyl) should be combined into one statute.

(g) On or before December 1, 2022, based on the benchmark personal use dosage and benchmark personal use supply recommendations of the Board, the Commission shall make recommendations to the General Assembly regarding adjustments in the amounts for possession, dispensing, and sale of regulated drugs under this chapter and a proposal for combining the heroin and fentanyl statutes if recommended by the Board.

(h) Starting in 2023, the Board shall convene at least one time per year to review benchmarks established pursuant to this section and recommend any necessary amendments to the Commission and the General Assembly.

(i) As used in this section:

(1) “Benchmark personal use dosage” means the quantity of a drug commonly consumed over a 24-hour period for any therapeutic, medicinal, or recreational purpose.

(2) “Benchmark personal use supply” means the quantity of a drug commonly possessed for consumption by an individual for any therapeutic, medicinal, or recreational purpose.

Sec. 4. SUNSET OF DRUG USE STANDARDS ADVISORY BOARD

13 V.S.A. § 5453 (Drug Use Standards Advisory Board) is repealed on July 1, 2027.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.