

H.505

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

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

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

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(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. [Repealed.]~~

(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.

(e)(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, 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.]~~

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. § 53, 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]~~

(3) 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.~~

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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~~ that causes a substantial hallucinogenic effect. The Board of Health shall adopt rules ~~which that~~ 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.

(c) 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.~~

[Repealed.]

(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 Ecstasy ~~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 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 10 years or fined not more than \$100,000.00, or both.~~

[Repealed.]

(3) A person knowingly and unlawfully selling or dispensing 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 20 years or fined not more than \$500,000.00, or both~~ commits a Class C felony.

Sec. 16. 18 V.S.A. § 4236 is amended to read:

§ 4236. MANUFACTURE OR CULTIVATION

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

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

Sec. 17. 18 V.S.A. § 4237 is amended to read:

§ 4237. SELLING OR DISPENSING TO MINORS; SELLING ON SCHOOL
GROUNDS

(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

(4) 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.

Sec. 21. 18 V.S.A. § 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 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. § 4234a (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. 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. 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.