

Journal of the House

Friday, March 18, 2022

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Mrowicki and Amelia Struthers of Putney.

Committee Bills Introduced

House bills of the following titles were severally introduced, read the first time, and placed on the Notice Calendar as follows:

H. 737

By the Committee on Ways and Means,
House bill, entitled

An act relating to setting the homestead property tax yields and the nonhomestead property tax rate

H. 738

By the Committee on Ways and Means,
House bill, entitled

An act relating to technical and administrative changes to Vermont's tax laws

Ceremonial Reading

H.C.R. 116

House concurrent resolution commemorating the 250th anniversary of the New Yorkers' capture and Bennington posse's rescue of early Arlington leader and pre-Revolutionary War patriot Remember Baker Jr.

Offered by: James of Manchester, Bongartz of Manchester, Brownell of Pownal, Corcoran of Bennington, Durfee of Shaftsbury, Morrissey of Bennington, Nigro of Bennington, Pajala of Londonderry, Sullivan of Dorset, and Whitman of Bennington and Senators Campion and Sears

Having been adopted in concurrence on Friday, March 11, 2022 in accord with Joint Rule 16b, was read.

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time, and passed:

H. 287

House bill, entitled

An act relating to patient financial assistance policies and medical debt protection

H. 465

House bill, entitled

An act relating to boards and commissions

H. 518

House bill, entitled

An act relating to the creation of the Municipal Fuel Switching Grant Program

H. 533

House bill, entitled

An act relating to converting civil forfeiture of property in drug-related prosecutions into a criminal process

H. 534

House bill, entitled

An act relating to sealing criminal history records

H. 629

House bill, entitled

An act relating to access to adoption records

H. 711

House bill, entitled

An act relating to the creation of the Opioid Settlement Advisory Committee and the Opioid Abatement Special Fund

H. 716

House bill, entitled

An act relating to making miscellaneous changes in education law

Amendment Withdrawn; Read Third Time; Bill Passed

H. 727

House bill, entitled

An act relating to the exploration, formation, and organization of union school districts and unified union school districts

Was taken up and, pending third reading of the bill, **Rep. Peterson of Clarendon** moved to amend the bill as follows:

First: In Sec. 3, 16 V.S.A. chapter 11, in section 731, in subdivision (a)(1), in the last sentence, following “after providing notice” by striking out the words “and after consultation with the selectboard”

Second: In Sec. 3, 16 V.S.A. chapter 11, in section 731, in subdivision (a)(1), in the last sentence, following “shall appoint” by striking out the words “an eligible person” and inserting in lieu thereof the words “a person chosen by the selectboard of the town”

Third: In Sec. 3, 16 V.S.A. chapter 11, in section 731, in subdivision (a)(1), in the last sentence, following “to fill the vacancy until” by striking out the words “the voters” and inserting in lieu thereof “that town’s voters”

Thereupon, **Rep. Peterson of Clarendon** asked and was granted leave of the House to withdraw his amendment. Thereafter, the bill was read the third time and passed.

Third Reading; Bill Passed

H. 731

House bill, entitled

An act relating to technical corrections for the 2022 legislative session

Was taken up, read the third time, and passed.

Third Reading; Bill Passed in Concurrence

S. 4

Senate bill, entitled

An act relating to procedures involving firearms

Was taken up, read the third time, and passed in concurrence.

Action on Bill Postponed**H. 492**

House bill, entitled

An act relating to the structure of the Natural Resources Board

Was taken up and, pending the reading of the report of the Committee on Natural Resources, Fish, and Wildlife, on motion of **Rep. Sheldon of Middlebury**, action on the bill was postponed until March 22, 2022.

Second Reading; Bill Amended; Third Reading Ordered**H. 505**

Rep. LaLonde of South Burlington, for the Committee on Judiciary, to which had been referred House bill, entitled

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

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

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. [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.~~

* * *

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.

(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 ~~40~~ 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 behavioral 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. 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.

Rep. Scheu of Middlebury, for the Committee on Appropriations, reported in favor of its passage when amended as recommended by the Committee on Judiciary.

Having appeared on the Calendar for Notice, was taken up and read the second time.

Pending the question, Shall the bill be amended as recommended by the Committee on Judiciary?, **Rep. Gannon of Wilmington** moved to amend the report of the Committee on Judiciary as follows:

By adding a new section to be Sec. 21a to read as follows:

Sec. 21a. SUNSET OF DRUG USE STANDARDS ADVISORY BOARD

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

Which was agreed to.

Thereafter, **Rep. Donahue of Northfield** moved to amend the report of the Committee on Judiciary as follows:

In Sec. 21, 18 V.S.A. § 4256, in subsection (a), by striking out “behavioral” and inserting in lieu thereof “mental”

Which was agreed to. Thereupon, the report of the Committee on Judiciary, as amended, was agreed to and third reading ordered.

Second Reading; Bill Amended; Third Reading Ordered

H. 626

Rep. Surprenant of Barnard, for the Committee on Agriculture and Forestry, to which had been referred House bill, entitled

An act relating to the sale, use, or application of neonicotinoid pesticides

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 1105a is amended to read:

§ 1105a. TREATED ARTICLES; POWERS OF SECRETARY; BEST
MANAGEMENT PRACTICES

(a) The Secretary of Agriculture, Food and Markets, upon the recommendation of the Agricultural Innovation Board, may adopt by rule:

(1) best management practices (BMPs), standards, procedures, and requirements relating to the sale, use, storage, or disposal of treated articles the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(2) requirements for the response to or corrective actions for exigent circumstances or contamination from a treated article that presents a threat to human health or the environment;

(3) requirements for the examination or inspection of treated articles the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(4) requirements for persons selling treated articles to keep or make available to the Secretary records of sale of treated articles, and what treatments were received, the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous; or

(5) requirements for reporting of incidents resulting from accidental contamination from or misuse of treated articles the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous.

(b) At least 30 days prior to prefilng a rule authorized under subsection (a) or subsection (c) of this section with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837, the Secretary shall submit a copy of the draft rule to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry for review.

(c)(1) Under subsection (a) of this section, the Secretary of Agriculture, Food and Markets, after consultation with the Agricultural Innovation Board, shall adopt by rule BMPs for the use of treated article seeds in the State. In developing the rules with the Agricultural Innovation Board, the Secretary shall address:

(A) establishment of threshold levels of pest pressure required prior to use of treated article seeds;

(B) availability of nontreated article seeds;

(C) economic impact from crop loss as compared to crop yield when treated article seeds are used;

(D) relative toxicities of different treated article seeds and effects of treated article seeds on human health and the environment;

(E) surveillance and monitoring techniques for in-field pest pressure;

(F) ways to reduce pest harborage from conservation tillage practices; and

(G) criteria for a system of approval of treated article seeds.

(2) In implementing the rules required under this subsection, the Secretary of Agriculture, Food and Markets shall work with farmers, seed companies, and other relevant parties to ensure that farmers have access to appropriate varieties and amounts of untreated seed or treated seed that has not been treated with a neonicotinoid pesticide.

Sec. 2. 6 V.S.A. § 3036 is added to read:

§ 3036. MONITORING OF POLLINATOR HEALTH

The Secretary of Agriculture, Food and Markets shall monitor managed pollinator health to establish pollinator health benchmarks for Vermont, including:

- (1) presence of pesticides in hives;
- (2) mite pressure;
- (3) disease pressure;
- (4) mite control methods;
- (5) genetic influence on survival;
- (6) winter survival rate; and
- (7) forage availability.

Sec. 3. IMPLEMENTATION; RULEMAKING

The Secretary of Agriculture, Food and Markets shall adopt the rules required under 6 V.S.A. § 1105a for the use of treated article seeds on or before July 1, 2024.

Sec. 4. AGENCY OF AGRICULTURE, FOOD AND MARKETS; RESIDUALS MANAGEMENT POSITIONS

Two new permanent classified positions at the Agency of Agriculture, Food and Markets are authorized in fiscal year 2023 for the purpose of staffing the Agency's Residuals Management Program, supporting the Agricultural Innovation Board, and enforcing and reviewing the use of treated article pesticides in the State. The two positions shall be transferred and converted from existing vacant positions in the Executive Branch. The two positions shall be funded from the revenue raised from the registration of soil amendments under 6 V.S.A. chapter 28 and the registration of dosage form animal health products and feed supplements under 6 V.S.A. chapter 26.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

Rep. Toleno of Brattleboro, for the Committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the Committee on Agriculture and Forestry and when further amended as follows:

In Sec. 4, Agency of Agriculture, Food and Markets; residuals management positions, by striking out the last sentence in its entirety and inserting in lieu thereof the following two new sentences to read as follows:

In fiscal year 2023, \$181,190.00 is appropriated to the Agency of Agriculture, Food and Markets for the purpose of hiring the two new positions in the Agency's Residuals Management Program. The two positions shall be funded from the revenue raised from the registration of soil amendments under

6 V.S.A. chapter 28 and the registration of dosage form animal health products and feed supplements under 6 V.S.A. chapter 26.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Agriculture and Forestry was amended as recommended by the Committee on Appropriations. Report of the Committee on Agriculture and Forestry, as amended, agreed to and third reading ordered.

Second Reading; Bill Amended; Third Reading Ordered

H. 546

Rep. LaLonde of South Burlington, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to racial justice statistics

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. chapter 68 is amended to read:

CHAPTER 68. ~~EXECUTIVE DIRECTOR OFFICE~~ OF RACIAL EQUITY

Subchapter 1. Executive Director of Racial Equity

* * *

§ 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

* * *

(e) The Director shall oversee the Division of Racial Justice Statistics (Division) established in subchapter 2 of this chapter.

(1) The Director shall have general charge of the Division and may appoint employees as necessary to carry out the purposes of this chapter.

(2) The Director may apply for grant funding, if available, to advance or support any responsibility within the Division's jurisdiction.

~~(e)~~(f) The Director shall periodically report to the Racial Equity Advisory Panel on the progress toward carrying out the duties as established by this section.

~~(f)~~(g) On or before January 15, 2020, and annually thereafter, the Director shall report to the House and Senate Committees on Government Operations demonstrating the State's progress in identifying and remediating systemic racial bias within State government.

* * *

Subchapter 2. Division of Racial Justice Statistics§ 5011. DIVISION OF RACIAL JUSTICE STATISTICS; CREATION;PURPOSE

(a) Creation. There is created within the Office of Racial Equity the Division of Racial Justice Statistics to collect and analyze data related to systemic racial bias and disparities within the criminal and juvenile justice systems.

(b) Purpose. The mission of the Division is to collect and analyze data relating to racial disparities with the intent to center racial equity throughout these efforts. The purpose of the Division is to create, promote, and advance a system and structure that provides access to appropriate data and information, ensuring that privacy interests are protected and principles of transparency and accountability are clearly expressed. The data are to be used to inform policy decisions that work toward the amelioration of racial disparities across various systems of State government.

§ 5012. DUTIES

(a) The Division shall have the following duties:

(1) Work collaboratively with, and have the assistance of, all State and local agencies and departments for purposes of collecting all data related to systemic racial bias and disparities within the criminal and juvenile justice systems.

(2) Collect and analyze the data related to systemic racial bias and disparities within the criminal and juvenile justice systems.

(3) Conduct justice information sharing gap analyses.

(4) Maintain an inventory of justice technology assets and a data dictionary to identify elements and structure of databases and relationships, if any, to other databases.

(5) Develop a justice technology strategic plan, which shall be updated annually. The justice technology strategic plan shall include identification and prioritization of data needs and requirements to fulfill new or emerging data research proposals or operational enhancements.

(6) Develop interagency agreements and memorandums of understanding for data sharing and publish public use files.

(7) Report its data, analyses, and recommendations to the Racial Justice Statistics Advisory Council on a monthly basis.

(b) On or before January 15, 2023, and annually thereafter, the Division shall report its data, analyses, and recommendations to the House and Senate Committees on Judiciary and on Government Operations. The report may include an operational assessment of the Division's structure and staffing levels, and any recommendations for necessary adjustments.

(c) To carry out its duties under this subchapter, the Division may adopt procedural and substantive rules in accordance with the provisions of chapter 25 of this title.

§ 5013. DATA GOVERNANCE

(a) Data collection. In consultation with the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel and the Racial Justice Statistics Advisory Council, the Division shall establish the data to be collected to carry out the duties of this subchapter.

(1) Any data or records transmitted to or obtained by the Division that are exempt from public inspection and copying under the Public Records Act shall remain exempt and shall be kept confidential to the extent required by law. A State or local agency or department that transmits data or records to the Division shall be the sole records custodian for purposes of responding to requests for the data or records. The Division may direct any request for these data or records to the transmitting agency or department for response, provided that the Division shall respond to a Public Records Act request for nonidentifying data used by the Division for preparation of the reports required by subdivision 5012(a)(7) and subsection 5012(b) of this title.

(2) The Division shall identify which State agencies or departments possess the data necessary for the Division to perform the requirements and objectives of this subchapter. An agency or department identified pursuant to this subdivision shall, upon request, provide the Division with any data that the Division determines is relevant to its purpose under subsection 5011(b) of this title, provided that the Office of the Defender General shall not be required to make any disclosures that would violate 1 V.S.A. § 317(c)(3). The Division may access the data of a non-State entity pursuant to a data sharing agreement or memorandum of understanding with the entity.

(3) The Division shall, pursuant to section 218 of this title, establish, maintain, and implement an active and continuing management program for its records and information, including data, with support and services provided by the Vermont State Archives and Records Administration pursuant to section 117 of this title and the Agency of Digital Services pursuant to section 3301 of this title.

(b) Data analysis. The Division shall analyze the data collected pursuant to this subchapter in order to:

(1) identify the stages of the criminal and juvenile justice systems at which racial bias and disparities are most likely to occur;

(2) organize and synthesize the data in a cohesive and logical manner so that it can be best presented and understood; and

(3) present the data to the Racial Justice Statistics Advisory Council as required under this subchapter.

(c) Data governance policy. The Division shall develop and adopt a data governance policy and shall establish:

(1) a system or systems to standardize the collection and retention of the data collected pursuant to this subchapter; and

(2) methods to permit sharing and communication of the data between the State agencies, local agencies, and external researchers, including the use of data sharing agreements.

(d) Data collection. The Division shall recommend to State and local agencies evidence-based practices and standards for the collection of racial justice data.

(e) Publicly available data.

(1) The Division shall maintain a public-facing website and dashboard that maximizes the transparency of the Division's work and ensures the ability of the public and historically impacted communities to review and understand the data collected by the Division and its analyses.

(2) The Division shall develop public use data files.

§ 5014. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL

(a) Creation. The Racial Justice Statistics Advisory Council is established. The Council shall be organized and have the duties and responsibilities as provided in this section. The Council shall have the administrative, legal, and technical support of the Agency of Administration.

(b) Membership.

(1) Appointments. The Council shall consist of seven members, as follows:

(A) an individual with substantive expertise in community-based research on racial equity, to be appointed by the Governor; and

(B)(i) six individuals who have experience with or knowledge about one or more of the following situations:

- (I) facing eviction;
- (II) violence, discrimination, or criminal conduct, including law enforcement misconduct;
- (III) moving to Vermont as an immigrant or refugee;
- (IV) effects of racial disparities and discipline policies within the educational system; or
- (V) participation in treatment programs addressing mental health, substance use disorder, and reentry programs; and

(ii) appointments made pursuant to this subdivision (B) shall be made by the following entities, each of which shall appoint one member: NAACP, Vermont Racial Justice Alliance, Migrant Justice, AALV Inc., Vermont Commission on Native American Affairs, and Outright Vermont.

(2) Qualifications. Members shall be drawn from diverse backgrounds to represent the interests of communities of color and other historically disadvantaged communities throughout the State and, to the extent possible, have experience working to implement racial justice reform and represent geographically diverse areas of the State.

(3) Terms. The term of each member shall be four years. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this section. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members shall serve until their successors are appointed. Members shall serve not more than two consecutive terms in any capacity.

(4) Chair and terms. Members of the Council shall elect by majority vote the Chair of the Council. Members of the Council shall be appointed on or before November 1, 2022 in order to prepare as they deem necessary for the establishment of the Council, including the election of the Chair of the Council. Terms of members shall officially begin on January 1, 2023.

(c) Liaisons. The following entities shall each make available a person to serve as a liaison with the Council for purposes of providing consultation as needed:

- (1) the Supreme Court;
- (2) the Office of the Attorney General;

- (3) the Office of the Defender General;
- (4) the Department of State's Attorneys and Sheriffs;
- (5) the Department of Public Safety;
- (6) the Department for Children and Families;
- (7) the Department of Corrections;
- (8) the Agency of Education;
- (9) the Human Rights Commission; and
- (10) the Center for Crime Victims Services.

(d) Duties. The Council shall have the following duties and responsibilities:

(1) work with and assist the Director or designee to implement the requirements of this subchapter;

(2) advise the Director to ensure ongoing compliance with the purpose of this subchapter;

(3) evaluate the data and analyses received from the Division and make recommendations to the Division as a result of the evaluations; and

(4) on or before January 15, 2023 and annually thereafter, report to the House and Senate Committees on Judiciary and on Government Operations on:

(A) its findings regarding systemic racial bias and disparities within the criminal and juvenile justice systems based upon the data and analyses the Council receives from the Division pursuant to subdivision 5012(a)(7) of this subchapter; and

(B) a status report on progress made and recommendations for further action, including legislative proposals, to address systemic racial bias and disparities within the criminal and juvenile justice systems.

(e) Meetings. The Council shall meet monthly.

(f) Compensation. Each member of the Council shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

(g) This section shall be repealed on June 30, 2027.

Sec. 2. RACIAL JUSTICE STATISTICS ADVISORY COUNCIL;
IMPLEMENTATION

(a) First meeting. The first meeting of the Racial Justice Statistics Advisory Council shall be called by the Director of Racial Equity or designee. All subsequent meetings shall be called by the Chair.

(b) Staggered terms. Notwithstanding Sec. 1 of this act, the initial terms of the Council members beginning on January 1, 2023 shall be as follows:

(1) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(A) and (b)(1)(B)(i)(I) shall be appointed to a two-year term.

(2) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(B)(i)(II) and (III) shall be appointed to a three-year term.

(3) Members appointed pursuant to 3 V.S.A. § 5014(b)(1)(B)(i)(IV) and (V) shall be appointed to a four-year term.

Sec. 3. DIVISION OF RACIAL JUSTICE STATISTICS; POSITIONS

The following new positions are created in the Division of Racial Justice Statistics:

(1) one full-time, exempt Division lead, who shall be an Information Technology Data Analyst; and

(2) two full-time, exempt Information Technology Data Analysts, at a level to be determined by the Division.

Sec. 4. APPROPRIATION

The following appropriations shall be made in fiscal year 2023:

(1) \$363,000.00 from the General Fund to the Office of Racial Equity for the Division of Racial Justice Statistics.

(2) \$3,360.00 from the General Fund to the Office of Racial Equity for per diem compensation and reimbursement of expenses under 32 V.S.A. § 1010 for members of the Racial Justice Statistics Advisory Council established by 13 V.S.A. § 5014.

(3) \$520,300.00 from the General Fund to the Agency of Digital Services to assist and support the Division of Racial Justice Statistics in the Office of Racial Equity.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

Rep. Long of Newfane presiding.

Rep. Krowinski of Burlington presiding.

Rep. Hooper of Montpelier, for the Committee on Appropriations, recommended the bill ought to pass when amended by the Committee on Judiciary.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, the report of the Committee on Judiciary agreed to, and third reading was ordered.

**Committee Bill; Second Reading;
Bill Amended; Third Reading Ordered**

H. 720

Rep. Wood of Waterbury spoke for the Committee on Human Services.

House bill, entitled

An act relating to the system of care for individuals with developmental disabilities

Rep. Yacovone of Morristown, for the Committee on Appropriations, recommended that the bill ought to pass when amended as follows:

In Sec. 4, Department of Disabilities, Aging, and Independent Living; Residential Program Developer, by inserting a subsection (a) designation before the first sentence of the section and by adding a subsection (b) to read as follows:

(b) In fiscal year 2023, \$102,000.00 is appropriated to the Department of Disabilities, Aging, and Independent Living from the Global Commitment Federal Medical Assistance Percentage (FMAP) home- and community-based services monies to fund the Residential Program Developer position established in subsection (a) of this section.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Appropriations agreed to.

Pending the question, Shall the bill be read a third time?, **Reps. Wood of Waterbury, Brumsted of Shelburne, Garofano of Essex, Gregoire of Fairfield, McFaun of Barre Town, Noyes of Wolcott, Pajala of Londonderry, Pugh of South Burlington, Rosenquist of Georgia, Small of Winooski, and Whitman of Bennington** moved that the bill be amended as follows:

In Sec. 5, Department of Disabilities, Aging, and Independent Living; Development of Housing and Residential Services Pilot Planning Grants, in

subsection (c), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3)(A) The steering committee shall have the technical, legal, and administrative assistance of the Department.

(B) The steering committee shall cease to exist on January 1, 2024.

Which was agreed to. Thereupon, third reading was ordered.

Adjournment

At twelve o'clock and eight minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until Tuesday, March 22, 2022, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 46.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Rule 16b of the Joint Rules of the Senate and House of Representatives, are hereby adopted on the part of the House:

H.C.R. 120

House concurrent resolution congratulating the 2022 Mt. Anthony Union High School boys' Division I Nordic skiing championship team

H.C.R. 121

House concurrent resolution congratulating the 2022 Mt. Anthony Union High School Patriots State championship wrestling team

S.C.R. 17

Senate concurrent resolution honoring John Shannahan for his extraordinary contributions to the economic and cultural life of the Town of Bennington

[The full text of the concurrent resolutions appeared in the House and Senate Calendar Addendums on the preceding legislative day and will appear in the Public Acts and Resolves of the 2022 Adjourned Session.]