

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 505
3 entitled “An act relating to reclassification of penalties for unlawfully
4 possessing, dispensing, and selling a regulated drug” respectfully reports that it
5 has considered the same and recommends that the bill be amended by striking
6 out all after the enacting clause and inserting in lieu thereof the following:

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

8 § 4215a. SALE OF SCHEDULE V DRUGS

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

14 * * *

15 (d) ~~For a first offense, a~~ A person knowingly and unlawfully violating the
16 provisions of this section ~~may be imprisoned for not more than six months or~~
17 ~~fined not more than \$500.00, or both. For a second or subsequent offense, a~~
18 ~~person knowingly and unlawfully violating the provisions of this section may~~
19 ~~be imprisoned for not more than two years or fined not more than \$2,000.00, or~~
20 ~~both~~ commits a Class C misdemeanor.

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

2 § 4223. FRAUD OR DECEIT

3 * * *

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

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

8 § 4228. UNLAWFUL MANUFACTURE, DISTRIBUTION, DISPENSING,
9 OR SALE OF A NONCONTROLLED DRUG OR SUBSTANCE

10 (a) It is unlawful for any person to knowingly dispense, manufacture,
11 process, package, distribute, or sell or attempt to dispense, manufacture,
12 process, package, distribute, or sell a noncontrolled drug or substance upon
13 either:

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

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

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

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(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: (7/1/22 effective date - amounts)

§ 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 60 grams 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

1 to participate in the Court Diversion Program unless the prosecutor states on
2 the record why a referral to the Court Diversion Program would not serve the
3 ends of justice. A person convicted of a first offense under this subdivision
4 shall be imprisoned not more than six months or fined not more than \$500.00,
5 or both.

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

9 (C) Upon an adjudication of guilt for ~~a first or second an~~ offense
10 under this subdivision (2), the court may defer sentencing as provided in
11 13 V.S.A. § 7041, except that the court may in its discretion defer sentence
12 without the filing of a presentence investigation report and except that sentence
13 may be imposed at any time within ~~two years six months~~ from and after the
14 date of entry of deferment. The court may, prior to sentencing, order that the
15 defendant submit to a drug assessment screening, which may be considered at
16 sentencing in the same manner as a presentence report.

17 (3) A person knowingly and unlawfully possessing eight ounces of
18 cannabis or 1.4 ounces of hashish or knowingly and unlawfully cultivating
19 more than four mature cannabis plants or eight immature cannabis plants shall
20 be imprisoned not more than three years or fined not more than \$10,000.00, or
21 both.

1 (4) A person knowingly and unlawfully possessing more than one pound
2 of cannabis or more than 2.8 ounces of hashish or knowingly and unlawfully
3 cultivating more than six mature cannabis plants or 12 immature cannabis
4 plants shall be imprisoned not more than five years or fined not more than
5 \$10,000.00, or both.

6 (5) A person knowingly and unlawfully possessing more than 10 pounds
7 of cannabis or more than one pound of hashish or knowingly and unlawfully
8 cultivating more than 12 mature cannabis plants or 24 immature cannabis
9 plants shall be imprisoned not more than 15 years or fined not more than
10 \$500,000.00, or both.

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

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

1 (b) Selling or dispensing.

2 (1) A person knowingly and unlawfully selling cannabis or hashish shall
3 be imprisoned not more than two years or fined not more than \$10,000.00, or
4 both.

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

8 (3) A person knowingly and unlawfully selling or dispensing one pound
9 or more of cannabis or 2.8 ounces or more of hashish shall be imprisoned not
10 more than 15 years or fined not more than \$500,000.00, or both.

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

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

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

7 Sec. 4a. 18 V.S.A. § 4230 is amended to read: (7/1/23 effective date -
8 classification)

9 § 4230. CANNABIS

10 (a) Possession and cultivation.

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

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

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

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

18 (2)(A) No person shall knowingly and unlawfully possess 60 grams or
19 more of cannabis or ten grams or more of hashish or more than three mature
20 cannabis plants or six immature cannabis plants. For a first offense under this
21 subdivision (2), a person shall be provided the opportunity to participate in the

1 Court Diversion Program unless the prosecutor states on the record why a
2 referral to the Court Diversion Program would not serve the ends of justice. A
3 person convicted of a first offense under this subdivision ~~shall be imprisoned~~
4 ~~not more than six months or fined not more than \$500.00, or both~~ commits a
5 Class B misdemeanor Class C misdemeanor.

6 (B) [Repealed]

7 (C) Upon an adjudication of guilt for an offense under this
8 subdivision (2), the court may defer sentencing as provided in 13 V.S.A.
9 § 7041, except that the court may in its discretion defer sentence without the
10 filing of a presentence investigation report and except that sentence may be
11 imposed at any time within six months from and after the date of entry of
12 deferment. The court may, prior to sentencing, order that the defendant submit
13 to a drug assessment screening, which may be considered at sentencing in the
14 same manner as a presentence report.

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

20 (4) A person knowingly and unlawfully possessing more than one pound
21 of cannabis or more than 2.8 ounces of hashish or knowingly and unlawfully

1 cultivating more than six mature cannabis plants or 12 immature cannabis
2 plants ~~shall be imprisoned not more than five years or fined not more than~~
3 ~~\$10,000.00, or both~~ commits a Class E felony.

4 (5) A person knowingly and unlawfully possessing more than 10 pounds
5 of cannabis or more than one pound of hashish or knowingly and unlawfully
6 cultivating more than 12 mature cannabis plants or 24 immature cannabis
7 plants ~~shall be imprisoned not more than 15 years or fined not more than~~
8 ~~\$500,000.00, or both~~ commits a Class D felony.

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

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

1 (b) Selling or dispensing.

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

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

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

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

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

1 of cannabis or five pounds or more of hashish intends to sell or dispense the
2 cannabis or hashish.

3 (d) **Cannabis-infused** products. Only the portion of a cannabis-infused
4 product that is attributable to cannabis shall count toward the possession limits
5 of this section.

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

7 § 4230f. DISPENSING CANNABIS TO A PERSON UNDER 21 YEARS
8 OF AGE; CRIMINAL OFFENSE

9 (a) No person shall:

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

11 (2) knowingly enable the consumption of cannabis by a person under
12 21 years of age.

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

15 (c) Except as provided in subsection (d) of this section, a person who
16 violates subsection (a) of this section ~~shall be imprisoned not more than two~~
17 ~~years or fined not more than \$2,000.00, or both~~ commits a Class A
18 misdemeanor.

19 (d) A person who violates subsection (a) of this section, where the person
20 under 21 years of age while operating a motor vehicle on a public highway
21 causes death or serious bodily injury to ~~himself or herself~~ themselves or to

1 another person as a result of the violation, ~~shall be imprisoned not more than~~
2 ~~five years or fined not more than \$10,000.00, or both~~ commits a Class D
3 felony.

4 (e)(1) Subsections (a)–(d) of this section shall not apply to a person under
5 21 years of age who dispenses cannabis to a person under 21 years of age or
6 who knowingly enables the consumption of cannabis by a person under
7 21 years of age.

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

14 (3) A person 18, 19, or 20 years of age who knowingly dispenses to a
15 person under 18 years of age who is at least three years that person’s junior
16 ~~shall be sentenced to a term of imprisonment of not more than five years in~~
17 ~~accordance with section 4237 of this title~~ commits a Class B misdemeanor.

18 (4) A person who is 19 years of age who knowingly dispenses to a
19 person 17 years of age or a person who is 18 years of age who knowingly
20 dispenses cannabis to a person who is 16 or 17 years of age commits a

1 ~~misdemeanor crime and shall be fined not more than \$500.00~~ Class E
2 misdemeanor.

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

6 * * *

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

8 § 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE

9 PROHIBITED

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

14 (b) A person who violates subsection (a) of this section ~~shall be imprisoned~~
15 ~~not more than two years or fined not more than \$2,000.00, or both~~ commits a
16 Class A misdemeanor. A person who violates subsection (a) of this section
17 and causes serious bodily injury to another person ~~shall be imprisoned not~~
18 ~~more than five years or fined not more than \$5,000.00, or both~~ commits a Class
19 E felony.

1 Sec. 7. 18 V.S.A. § 4231 is amended to read: (7/1/22 effective date -
2 amounts)

3 § 4231. COCAINE

4 (a) Possession.

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

7 (2) A person knowingly and unlawfully possessing cocaine in an
8 amount consisting of 2.5 5 grams or more of one or more preparations,
9 compounds, mixtures, or substances containing cocaine shall be imprisoned
10 not more than five years or fined not more than \$100,000.00, or both.

11 (3) A person knowingly and unlawfully possessing cocaine in an
12 amount consisting of ~~one ounce~~ 30 grams or more of one or more preparations,
13 compounds, mixtures, or substances containing cocaine shall be imprisoned
14 not more than 10 years or fined not more than \$250,000.00, or both.

15 (4) ~~[Deleted.]~~ [Repealed.]

16 (b) Selling or dispensing.

17 (1) A person knowingly and unlawfully dispensing cocaine shall be
18 imprisoned not more than three years or fined not more than \$75,000.00, or
19 both. A person knowingly and unlawfully selling cocaine shall be imprisoned
20 not more than five years or fined not more than \$100,000.00, or both.

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

5 (3) A person knowingly and unlawfully selling or dispensing cocaine in
6 an amount consisting of ~~one ounce~~ 30 grams or more of one or more
7 preparations, compounds, mixtures, or substances containing cocaine shall be
8 imprisoned not more than 20 years or fined not more than \$1,000,000.00, or
9 both.

10 (c) Trafficking.

11 (1) ~~Trafficking.~~ A person knowingly and unlawfully possessing cocaine
12 in an amount consisting of ~~150~~ 100 grams or more of one or more preparations,
13 compounds, mixtures, or substances containing cocaine with the intent to sell
14 or dispense the cocaine shall be imprisoned not more than 30 years or fined not
15 more than \$1,000,000.00, or both. There shall be a permissive inference that a
16 person who possesses cocaine in an amount consisting of ~~150~~ 100 grams or
17 more of one or more preparations, compounds, mixtures, or substances
18 containing cocaine intends to sell or dispense the cocaine. The amount of
19 possessed cocaine under this subdivision to sustain a charge of conspiracy
20 under 13 V.S.A. § 1404 shall be ~~no~~ not less than 400 grams in the aggregate.

1 (2) ~~A person knowingly and unlawfully possessing crack cocaine in an~~
2 ~~amount consisting of 60 grams or more of one or more preparations,~~
3 ~~compounds, mixtures, or substances containing crack cocaine with the intent to~~
4 ~~sell or dispense the crack cocaine shall be imprisoned not more than 30 years~~
5 ~~or fined not more than \$1,000,000.00, or both. There shall be a permissive~~
6 ~~inference that a person who possesses crack cocaine in an amount consisting of~~
7 ~~60 grams or more of one or more preparations, compounds, mixtures, or~~
8 ~~substances containing crack cocaine intends to sell or dispense the crack~~
9 ~~cocaine. [Repealed.]~~

10 Sec. 7a. 18 V.S.A. § 4231 is amended to read: **(7/1/23 effective date -**
11 **classification)**

12 § 4231. COCAINE

13 (a) Possession.

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

17 (2) A person knowingly and unlawfully possessing cocaine in an
18 amount consisting of **5** grams or more of one or more preparations,
19 compounds, mixtures, or substances containing cocaine ~~shall be imprisoned~~
20 ~~not more than five years or fined not more than \$100,000.00, or both~~ commits
21 a Class E felony.

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

6 (4) [Repealed.]

7 (b) Selling or dispensing.

8 (1) A person knowingly and unlawfully dispensing cocaine ~~shall be~~
9 ~~imprisoned not more than three years or fined not more than \$75,000.00, or~~
10 ~~both~~ commits a Class E felony. A person knowingly and unlawfully selling
11 cocaine ~~shall be imprisoned not more than five years or fined not more than~~
12 ~~\$100,000.00, or both~~ commits a Class D felony.

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

17 [Repealed.]

18 (3) A person knowingly and unlawfully selling or dispensing cocaine in
19 an amount consisting of 30 grams or more of one or more preparations,
20 compounds, mixtures, or substances containing cocaine ~~shall be imprisoned~~

1 ~~not more than 20 years or fined not more than \$1,000,000.00, or both~~ commits
2 a Class C felony.

3 (c) Trafficking.

4 (1) A person knowingly and unlawfully possessing cocaine in an
5 amount consisting of **100** grams or more of one or more preparations,
6 compounds, mixtures, or substances containing cocaine with the intent to sell
7 or dispense the cocaine ~~shall be imprisoned not more than 30 years or fined not~~
8 ~~more than \$1,000,000.00, or both~~ commits a Class B felony. There shall be a
9 permissive inference that a person who possesses cocaine in an amount
10 consisting of **100** grams or more of one or more preparations, compounds,
11 mixtures, or substances containing cocaine intends to sell or dispense the
12 cocaine. The amount of possessed cocaine under this subdivision to sustain a
13 charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 400 grams
14 in the aggregate.

15 **(2) [Repealed.]**

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

17 § 4232. LSD

18 (a) Possession.

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

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

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

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

16 (b) Selling or dispensing.

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

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

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

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

13 Sec. 9. 18 V.S.A. § 4233 is amended to read: (7/1/22 effective date – adds
14 fentanyl and tweaks amounts)

15 § 4233. HEROIN; FENTANYL

16 (a) Possession.

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

20 (2) A person knowingly and unlawfully possessing heroin or any
21 combination of heroin and fentanyl in an amount consisting of 200

1 500 milligrams or more of one or more preparations, compounds, mixtures, or
2 substances containing heroin or any combination of heroin and fentanyl shall
3 be imprisoned not more than five two years or fined not more than
4 \$100,000.00 \$5,000.00, or both.

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

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

17 (b) Selling or dispensing.

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

1 fentanyl shall be imprisoned not more than five years or fined not more than
2 \$100,000.00, or both.

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

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

12 (4) This subsection shall apply to fentanyl and any combination of
13 heroin and fentanyl, but not fentanyl combined with any other regulated drug.

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

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

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

11 (e) As used in subsections (b) and (c) of this section, “knowingly” includes
12 actual knowledge as well as situations in which a person subjectively believes
13 there is a high probability that a fact exists and takes deliberate actions to avoid
14 learning of that fact in order to deny knowledge if apprehended. A person acts
15 knowingly when the individual acts voluntarily and consciously and not
16 inadvertently, because of a mistake, or by accident.

17 Sec. 9a. 18 V.S.A. § 4233 is amended to read: (7/1/23 effective date -
18 classification)

19 § 4233. HEROIN; FENTANYL

20 (a) Possession.

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

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

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

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

1 (b) Selling or dispensing.

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

8 (2) [Repealed.]

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

14 (4) This subsection shall apply to fentanyl and any combination of
15 heroin and fentanyl, but not fentanyl combined with any other regulated drug.

16 (c) Trafficking. A person knowingly and unlawfully possessing 5 grams or
17 more of one or more preparations, compounds, mixtures, or substances
18 containing heroin, fentanyl, or any combination of heroin and fentanyl with the
19 intent to sell or dispense the heroin ~~shall be imprisoned not more than 30 years~~
20 ~~or fined not more than \$1,000,000.00, or both~~ commits a Class B felony.

21 There shall be a permissive inference that a person who possesses 5 grams or

1 more of one or more preparations, compounds, mixtures, or substances
2 containing heroin, fentanyl, or any combination of heroin and fentanyl intends
3 to sell or dispense the heroin, fentanyl, or any combination of heroin and
4 fentanyl. The amount of possessed heroin, fentanyl, or any combination of
5 heroin and fentanyl under this subsection to sustain a charge of conspiracy
6 under 13 V.S.A. § 1404 shall be not less than 10 grams in the aggregate.

7 (d) [Repealed.]

8 (e) As used in subsections (b) and (c) of this section, “knowingly” includes
9 actual knowledge as well as situations in which a person subjectively believes
10 there is a high probability that a fact exists and takes deliberate actions to avoid
11 learning of that fact in order to deny knowledge if apprehended. A person acts
12 knowingly when the individual acts voluntarily and consciously and not
13 inadvertently, because of a mistake, or by accident.

14 Sec. 10. REPEAL

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

16 Sec. 11. 13 V.S.A. § 1404 is amended to read:

17 § 1404. CONSPIRACY

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

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

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

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

11 (1) murder in the first or second degree;

12 (2) arson under sections 501–504 and 506 of this title;

13 (3) sexual exploitation of children under sections 2822, 2823, and 2824
14 of this title;

15 (4) receiving stolen property under sections 2561–2564 of this title; or

16 (5) an offense involving the sale, delivery, manufacture, or cultivation of
17 a regulated drug or an offense under:

18 (A) 18 V.S.A. § 4230(c), relating to trafficking in cannabis;

19 (B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine;

20 (C) 18 V.S.A. § 4233(c), relating to trafficking in heroin, fentanyl, or
21 any combination of heroin and fentanyl;

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

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

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

7 **Sec. 12. 18 V.S.A. § 4234 is amended to read: (This section combines**
8 **classification with previously enacted sunset of buprenorphine provisions)**

9 **§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS**

10 **(a) Possession.**

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

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

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

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

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

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

13 (b) Selling or dispensing.

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

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

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

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

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

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

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

1 ~~Sec. 13. 2021 Acts and Resolves No. 46, Sec. 3 is amended to read:~~

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

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

4 ~~(a) Possession.~~

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

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

11 * * *

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

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

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

20 * * *

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

2 § 4234a. METHAMPHETAMINE

3 (a) Possession.

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

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

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

17 (b) Selling and dispensing.

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

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

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

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

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

1 dispense the methamphetamine. The amount of possessed methamphetamine
2 under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404
3 shall be ~~no~~ not less than 800 grams in the aggregate

4 Sec. 14. 18 V.S.A. § 4234b is amended to read:

5 § 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

6 (a) Possession.

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

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

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

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

20 * * *

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

2 § 4235. HALLUCINOGENIC DRUGS

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

10 (b) Possession.

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

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

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

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

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

7 (c) Selling or dispensing.

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

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

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

1 Sec. 16. 18 V.S.A. § 4235a is amended to read:

2 § 4235a. ECSTASY

3 (a) Possession.

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

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

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

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

21 [Repealed.]

1 (b) Selling or dispensing.

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

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

11 [Repealed.]

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

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

18 § 4236. MANUFACTURE OR CULTIVATION

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

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

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

3 § 4237. SELLING OR DISPENSING TO MINORS; SELLING ON SCHOOL
4 GROUNDS

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

9 (b) Sale of regulated drugs. A person knowingly and unlawfully selling
10 any regulated drug to a minor shall, in addition to any other penalty, be
11 sentenced to a term of imprisonment of not more than ~~40~~ 5 years.

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

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

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

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

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

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

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

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

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

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

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

16 Sec. 19. 18 V.S.A. § 4249 is amended to read:

17 § 4249. TRANSPORTATION OF ALCOHOL, TOBACCO, OR

18 REGULATED DRUGS INTO PLACES OF DETENTION

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

21 (1) alcohol or alcoholic beverages;

1 (2) cannabis;

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

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

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

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

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

20 * * *

1 Sec. 20. 18 V.S.A. § 4250 is amended to read:

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

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

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

10 ~~(c) As used in this section, “knowingly” includes actual knowledge as well~~
11 ~~as situations in which a person subjectively believes there is a high probability~~
12 ~~that a fact exists and takes deliberate actions to avoid learning of that fact in~~
13 ~~order to deny knowledge if apprehended. A person acts knowingly when the~~
14 ~~individual acts voluntarily and consciously and not inadvertently, because of a~~
15 ~~mistake, or by accident.~~

16 Sec. 21. 18 V.S.A. § 4252 is amended to read:

17 § 4252. PENALTIES FOR DISPENSING OR SELLING REGULATED
18 DRUGS IN A DWELLING

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

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

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

8 Sec. 22. 18 V.S.A. § 4256 is added to read:

9 § 4256. DRUG USE STANDARDS ADVISORY BOARD

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

14 (b) The primary objective of the Board shall be to determine, for each
15 regulated and unregulated drug, the benchmark personal use dosage and the
16 benchmark personal use supply. The benchmarks determined pursuant to this
17 subsection shall be determined with a goal of preventing and reducing the
18 criminalization of personal drug use.

19 (c) The Drug Use Standards Advisory Board shall be convened and chaired
20 by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs.
21 After receiving nominations from harm reduction service providers, the

1 Deputy Commissioner shall appoint three consumer representatives to the
2 Board who have lived experience in drug use and consumption practices. The
3 Deputy Commissioner and the three consumer representatives shall appoint the
4 remaining Board members as follows:

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

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

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

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

9 (5) an expert on legal reform from the University of Vermont Law

10 School Center for Justice Reform; and

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

12 (d) On or before September 1, 2022, the Drug Use Standards Advisory
13 Board shall provide the recommended quantities for both the benchmark
14 personal use dosage and benchmark personal use supply for each category of
15 regulated drug listed in subdivision 4201(29) of this title to the Sentencing
16 Commission and the General Assembly.

17 (e) On or before December 1, 2022, based on the benchmark personal use
18 dosage and benchmark personal use supply recommendations of the Board, the
19 Sentencing Commission shall make recommendations to the General
20 Assembly regarding adjustments in the amounts for possession, dispensing,
21 and sale of regulated drugs under this chapter.

1 (f) Starting in 2023, the Drug Use Standards Advisory Board shall convene
2 at least one time per year to review benchmarks established pursuant to this
3 section and recommend any necessary amendments to the Sentencing
4 Commission and the General Assembly.

5 (g) As used in this section:

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

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

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

13 § 4476. OFFENSES AND PENALTIES

14 (a) A person who sells drug paraphernalia to a person under 18 years of age
15 ~~shall be imprisoned for not more than two years or fined not more than~~
16 ~~\$2,000.00, or both~~ commits a Class C misdemeanor.

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

1 **Sec. 24. EFFECTIVE DATES**

2 (a) This section and Secs. 4, 7, 9, 10, and 22 shall take effect on July 1,

3 2022.

4 (b) Secs. 1–3, 4a, 5, 6, 7a, 8, 9a, 11–21, and 23 shall take effect on July 1,

5 2023.

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13 (Committee vote: _____)

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Representative _____

FOR THE COMMITTEE