

1 TO THE HONORABLE SENATE:

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 Senate propose to the House
6 that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

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

9 § 4230. CANNABIS

10 * * *

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

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

18 § 4231. COCAINE

19 * * *

1 (c) Trafficking.

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

12 (2) ~~A person knowingly and unlawfully possessing crack cocaine in an~~
13 ~~amount consisting of 60 grams or more of one or more preparations,~~
14 ~~compounds, mixtures, or substances containing crack cocaine with the intent to~~
15 ~~sell or dispense the crack cocaine shall be imprisoned not more than 30 years~~
16 ~~or fined not more than \$1,000,000.00, or both. There shall be a permissive~~
17 ~~inference that a person who possesses crack cocaine in an amount consisting of~~
18 ~~60 grams or more of one or more preparations, compounds, mixtures, or~~
19 ~~substances containing crack cocaine intends to sell or dispense the crack~~
20 ~~cocaine.~~ [Repealed.]

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

2 § 5453. DRUG USE STANDARDS ADVISORY BOARD

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

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

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

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

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

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

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

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

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

8 and

9 (G) a representative of law enforcement.

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

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

14 (e) Members of the Board shall be entitled to per diems pursuant to
15 32 V.S.A. § 1010 for not more than three meetings to develop initial
16 recommendations required by subsection (f) of this section and once annually
17 thereafter.

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

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

4 (2) a recommendation as to whether 18 V.S.A. § 4233 (heroin) and
5 18 V.S.A. § 4233a (fentanyl) should be combined into one statute.

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

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

15 (i) As used in this section:

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

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

1 Sec. 4. SUNSET OF DRUG USE STANDARDS ADVISORY BOARD

2 13 V.S.A. § 5453 (Drug Use Standards Advisory Board) is repealed on
3 July 1, 2027.

4 Sec. 5. EFFECTIVE DATE

5 This act shall take effect on July 1, 2022.

6 and that after passage the title of the bill be amended to read: “An act
7 relating to the creation of the Drug Use Standards Advisory Board within the
8 Vermont Sentencing Commission”

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14 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE