

1 H.399

2 Introduced by Representatives Peterson of Clarendon and Branagan of

3 Georgia

4 Referred to Committee on

5 Date:

6 Subject: Health; regulated drugs; crimes

7 Statement of purpose of bill as introduced: This bill proposes to increase the
8 criminal penalties for dispensing cannabis to a person under 21 years of age
9 and to increase the criminal penalties for possession, dispensing, and sale of
10 cocaine, LSD, heroin, and fentanyl.

11 An act relating to increasing the penalties for sales of illegal drugs and sales
12 of cannabis to persons under 21 years of age

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

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

15 § 4230f. DISPENSING CANNABIS TO A PERSON UNDER 21 YEARS OF

16 AGE; CRIMINAL OFFENSE

17 (a) No person shall:

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

19 (2) knowingly enable the consumption of cannabis by a person under 21

20 years of age.

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

3 (c) Except as provided in subsection (d) of this section, a person who
4 violates subsection (a) of this section shall be imprisoned not ~~more~~ less than
5 ~~two~~ five years ~~or~~ and fined not ~~more~~ less than \$2,000.00, ~~or both~~ \$10,000. A
6 person convicted of a second or subsequent offense of violating subsection (a)
7 of this section shall be imprisoned not less than 10 years and fined not less than
8 \$20,000.00. A person convicted of a third offense of violating subsection (a)
9 of this section shall be imprisoned not less than 20 years and fined not less than
10 \$40,000.00.

11 (d) A person who violates subsection (a) of this section, where the person
12 to whom cannabis was dispensed is under 21 years of age, and while operating
13 a motor vehicle ~~on a public highway~~ causes death or serious bodily injury to
14 ~~himself or herself or to~~ another person as a result of the violation, shall be
15 imprisoned not ~~more~~ less than ~~five~~ 20 years ~~or~~ and fined not ~~more~~ less than
16 ~~\$10,000.00, or both~~ \$100,000.00. A person convicted of a second or
17 subsequent offense shall be imprisoned for life.

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

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

7 [Repealed.]

8 ~~(3) A person 18, 19, or 20 years of age who knowingly dispenses to a~~
9 ~~person under 18 years of age who is at least three years that person's junior~~
10 ~~shall be sentenced to a term of imprisonment of not more than five years in~~
11 ~~accordance with section 4237 of this title. [Repealed.]~~

12 ~~(4) A person who is 19 years of age who knowingly dispenses to a~~
13 ~~person 17 years of age or a person who is 18 years of age who knowingly~~
14 ~~dispenses cannabis to a person who is 16 or 17 years of age commits a~~
15 ~~misdemeanor crime and shall be fined not more than \$500.00. [Repealed.]~~

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

19 ~~(f)~~(g) This section shall not apply to a dispensary that lawfully provides
20 cannabis to a registered patient or caregiver or to a registered caregiver who
21 provides cannabis to a registered patient pursuant to chapter 86 of this title.

1 ~~(g)~~(h) The provisions of this section do not limit or restrict the prosecution
2 for other offenses arising out of the same conduct, nor shall they limit or
3 restrict defenses under common law.

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

5 § 4231. COCAINE

6 (a) Possession.

7 (1) A person knowingly and unlawfully possessing cocaine in any
8 amount shall be imprisoned not ~~more~~ less than ~~one year or~~ five years and fined
9 not more than \$2,000.00, ~~or both~~. A person convicted of a second or
10 subsequent offense shall be imprisoned not less than 15 years and fined not
11 more than \$6,000.00. A person convicted of a third offense shall be
12 imprisoned not less than 20 years and fined not more than \$100,000.00.

13 (2) ~~A person knowingly and unlawfully possessing cocaine in an~~
14 ~~amount consisting of 2.5 grams or more any amount of one or more~~
15 ~~preparations, compounds, mixtures, or substances containing cocaine shall be~~
16 ~~imprisoned not more than five years or fined not more than \$100,000.00, or~~
17 ~~both. A second offense will triple the penalty. A person who has a third~~
18 ~~offense shall serve life in prison. [Repealed.]~~

19 (3) ~~A person knowingly and unlawfully possessing cocaine in an~~
20 ~~amount consisting of one ounce or more of one or more preparations,~~
21 ~~compounds, mixtures, or substances containing cocaine shall be imprisoned~~

1 ~~not more than 10 years or fined not more than \$250,000.00, or both.~~

2 [Repealed.]

3 (4) ~~[Deleted.]~~

4 (b) Selling or dispensing.

5 (1) A person knowingly and unlawfully dispensing or selling cocaine in
6 any amount shall be imprisoned not ~~more~~ less than ~~three~~ 10 years ~~or~~ and fined
7 not more than ~~\$75,000.00, or both \$100,000.00.~~ A person knowingly and
8 unlawfully selling cocaine shall be imprisoned not more than five years or
9 fined not more than \$100,000.00, or both. A person convicted of a second
10 offense shall be imprisoned not less than 20 years and fined not more than
11 \$200,000.00. A person convicted of a third or subsequent offense shall be
12 imprisoned for life and fined not more than \$1,000,000.00.

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 one ounce 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.~~

2 [Repealed.]

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

15 (2) A person knowingly and unlawfully possessing crack cocaine in an
16 amount consisting of 60 grams or more of one or more preparations,
17 compounds, mixtures, or substances containing crack cocaine with the intent to
18 sell or dispense the crack cocaine shall be imprisoned not ~~more~~ less than 30
19 years ~~or~~ and fined not more than \$1,000,000.00, ~~or both~~. A person convicted
20 of a second or subsequent offense shall be imprisoned for life and fined not
21 more than \$1,000,000.00. There shall be a permissive inference that a person

1 who possesses crack cocaine in an amount consisting of 60 grams or more of
2 one or more preparations, compounds, mixtures, or substances containing
3 crack cocaine intends to sell or dispense the crack cocaine.

4 Sec. 3. 18 V.S.A. § 4232 is amended to read:

5 § 4232. LSD

6 (a) Possession.

7 (1) A person knowingly and unlawfully possessing lysergic acid
8 diethylamide in any amount shall be imprisoned not ~~more~~ less than ~~one year or~~
9 five years and fined not more than ~~\$2,000.00, or both~~ \$5,000.00.

10 (2) ~~A person knowingly and unlawfully possessing lysergic acid~~
11 ~~diethylamide in an amount consisting of 100 milligrams or more of one or~~
12 ~~more preparations, compounds, mixtures, or substances containing lysergic~~
13 ~~acid diethylamide shall be imprisoned not more than five years or fined not~~
14 ~~more than \$25,000.00, or both. [Repealed.]~~

15 (3) ~~A person knowingly and unlawfully possessing lysergic acid~~
16 ~~diethylamide in an amount consisting of one gram or more of one or more~~
17 ~~preparations, compounds, mixtures, or substances containing lysergic acid~~
18 ~~diethylamide shall be imprisoned not more than 10 years or fined not more~~
19 ~~than \$100,000.00, or both. [Repealed.]~~

20 (4) ~~A person knowingly and unlawfully possessing lysergic acid~~
21 ~~diethylamide in an amount consisting of 10 grams or more of one or more~~

1 ~~preparations, compounds, mixtures, or substances containing lysergic acid~~
2 ~~diethylamide shall be imprisoned not more than 20 years or fined not more~~
3 ~~than \$500,000.00, or both. [Repealed.]~~

4 (b) Selling or dispensing.

5 (1) A person knowingly and unlawfully dispensing or selling lysergic
6 acid diethylamide in any amount shall be imprisoned not ~~more~~ less than ~~three~~
7 10 years ~~or~~ and fined not ~~more~~ less than ~~\$25,000.00, or both \$50,000.00.~~ A
8 ~~person knowingly and unlawfully selling lysergic acid diethylamide shall be~~
9 ~~imprisoned not more than five years or fined not more than \$25,000.00, or~~
10 ~~both.~~ A person convicted of a second or subsequent offense shall be
11 imprisoned for life and fined not more than \$1,000,000.00.

12 (2) ~~A person knowingly and unlawfully selling or dispensing lysergic~~
13 ~~acid diethylamide in an amount consisting of 100 milligrams or more of one or~~
14 ~~more preparations, compounds, mixtures, or substances containing lysergic~~
15 ~~acid diethylamide shall be imprisoned not more than 10 years or fined not~~
16 ~~more than \$100,000.00, or both. [Repealed.]~~

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

1 Sec. 4. 18 V.S.A. § 4233 is amended to read:

2 § 4233. HEROIN

3 (a) Possession.

4 (1) A person knowingly and unlawfully possessing heroin in any
5 amount shall be imprisoned not ~~more~~ less than ~~one year or~~ three years and
6 fined not more than ~~\$2,000.00, or both~~ \$5,000.00. A person convicted of a
7 second offense shall be imprisoned not less than 10 years and fined not less
8 than \$20,000.00. A person convicted of a third or subsequent offense shall be
9 imprisoned not less than 20 years and fined not less than \$200,000.00.

10 (2) ~~A person knowingly and unlawfully possessing heroin in an amount~~
11 ~~consisting of 200 milligrams or more of one or more preparations, compounds,~~
12 ~~mixtures, or substances containing heroin shall be imprisoned not more than~~
13 ~~five years or fined not more than \$100,000.00, or both. [Repealed.]~~

14 (3) ~~A person knowingly and unlawfully possessing heroin in an amount~~
15 ~~consisting of one gram or more of one or more preparations, compounds,~~
16 ~~mixtures, or substances containing heroin shall be imprisoned not more than 10~~
17 ~~years or fined not more than \$250,000.00, or both. [Repealed.]~~

18 (4) ~~A person knowingly and unlawfully possessing heroin in an amount~~
19 ~~consisting of two grams or more of one or more preparations, compounds,~~
20 ~~mixtures, or substances containing heroin shall be imprisoned not more than 20~~
21 ~~years or fined not more than \$1,000,000.00, or both. [Repealed.]~~

1 (b) Selling or dispensing.

2 (1) A person knowingly and unlawfully dispensing heroin in any
3 amount shall be imprisoned not ~~more~~ less than ~~three~~ 20 years ~~or~~ and fined not
4 ~~more~~ less than \$75,000.00, ~~or both~~ \$500,000.00. ~~A person knowingly and~~
5 ~~unlawfully selling heroin shall be imprisoned not more than five years or fined~~
6 ~~not more than \$100,000.00, or both.~~ A person convicted of a second or
7 subsequent offense shall be imprisoned for life and fined not less than
8 \$500,000.00.

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

13 (3) ~~A person knowingly and unlawfully selling or dispensing heroin in~~
14 ~~an amount consisting of one gram or more of one or more preparations,~~
15 ~~compounds, mixtures, or substances containing heroin shall be imprisoned not~~
16 ~~more than 20 years or fined not more than \$1,000,000.00, or both.~~ [Repealed.]

17 (c) Trafficking. A person knowingly and unlawfully possessing heroin in
18 an amount consisting of 3.5 grams or more of one or more preparations,
19 compounds, mixtures, or substances containing heroin with the intent to sell or
20 dispense the heroin shall be imprisoned not ~~more~~ less than 30 years ~~or~~ and
21 fined not ~~more~~ less than \$1,000,000.00, ~~or both~~ \$500,000.00. There shall be a

1 permissive inference that a person who possesses heroin in an amount of 3.5
2 grams or more of one or more preparations, compounds, mixtures, or
3 substances containing heroin intends to sell or dispense the heroin. ~~The~~
4 ~~amount of possessed heroin under this subsection to sustain a charge of~~
5 ~~conspiracy under 13 V.S.A. § 1404 shall be no less than 10 grams in the~~
6 ~~aggregate.~~ A person convicted of a second or subsequent offense shall be
7 imprisoned for life and fined not less than \$500,000.00.

8 (d) Transportation into the State. In addition to any other penalties
9 provided by law, a person knowingly and unlawfully transporting ~~one gram or~~
10 ~~more of~~ heroin into Vermont with the intent to sell or dispense the heroin shall
11 be imprisoned not more than ~~40~~ 30 years ~~or~~ and fined not ~~more~~ less than
12 ~~\$100,000.00, or both \$500,000.00.~~ A person convicted of a second or
13 subsequent offense shall be imprisoned for life and fined not less than
14 \$500,000.00.

15 Sec. 5. 18 V.S.A. § 4233a is amended to read:

16 § 4233a. FENTANYL

17 (a) Selling or dispensing.

18 (1) A person knowingly and unlawfully dispensing or selling fentanyl in
19 any amount shall be imprisoned not ~~more~~ less than ~~three~~ 10 years ~~or~~ and fined
20 not more than ~~\$75,000.00, or both \$100,000.00.~~ ~~A person knowingly and~~

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

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

7 [Repealed.]

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

12 [Repealed.]

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

18 (b) Trafficking. A person knowingly and unlawfully possessing fentanyl in
19 ~~an amount consisting of 70 milligrams or more~~ any amount of one or more
20 preparations, compounds, mixtures, or substances containing fentanyl with the
21 intent to sell or dispense the fentanyl shall be imprisoned ~~not more than 30~~

1 ~~years or for life and~~ fined not ~~more~~ less than \$1,000,000.00, ~~or both~~. There
2 shall be a permissive inference that a person who possesses fentanyl in ~~an~~
3 ~~amount of 70 milligrams or more of~~ one or more preparations, compounds,
4 mixtures, or substances containing fentanyl intends to sell or dispense the
5 fentanyl. ~~The amount of possessed fentanyl under this subsection to sustain a~~
6 ~~charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70~~
7 ~~milligrams in the aggregate.~~

8 (c) Transportation into the State. In addition to any other penalties
9 provided by law, a person knowingly and unlawfully transporting ~~more than 20~~
10 ~~milligrams of~~ fentanyl into Vermont with the intent to sell or dispense the
11 fentanyl shall be imprisoned ~~not more than 10 years or~~ for life and fined not
12 more than ~~\$100,000.00, or both~~ \$1,000,000.00.

13 Sec. 6. EFFECTIVE DATE

14 This act shall take effect on July 1, 2023