

1 S.119

2 Introduced by Senators Vyhovsky, Bray, Gulick, Hashim, MacDonald,
3 McCormack, Perchlik, Ram Hinsdale, Watson, White and
4 Wrenner

5 Referred to Committee on

6 Date:

7 Subject: Regulated drugs; decriminalization of personal use supply

8 Statement of purpose of bill as introduced: This bill proposes to change the
9 penalties for possession of a personal use supply of drugs from a misdemeanor
10 or low-level felony to a civil offense subject to a \$50.00 penalty. A person
11 cited for such an offense may avoid paying the penalty by agreeing to
12 participate in a screening for substance use disorder treatment and related
13 services. The bill would also establish the Drug Use Standards Advisory
14 Board for the purpose of determining the benchmark personal use dosage and
15 the benchmark personal use supply for regulated drugs with a goal of
16 preventing and reducing the criminalization of personal drug use. Individuals
17 previously arrested for or convicted of possession of a regulated drug in an
18 amount under the benchmark personal use supply amount would also be
19 eligible for immediate sealing of criminal history records. Additionally, to
20 prevent overdose, the bill would also authorize the operation of drug-checking
21 programs to allow individuals to obtain analysis of a regulated drug previously

1 obtained by an individual for purposes of determining the chemical
2 composition of the substance and identifying chemical contaminants. The bill
3 would establish a pilot project to support the development and operation of
4 such programs.

5 An act relating to a public health response to drug use

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

7 Sec. 1. FINDINGS

8 The General Assembly finds that:

9 (1) Fatal and nonfatal drug overdoses in Vermont are an urgent public
10 health crisis, with rates of overdose deaths rising sharply in recent years. Drug
11 overdose reportedly killed 251 Vermonters 2021, nearly a 35 percent increase
12 from the prior year and well over double the number of deaths occurring in
13 years preceding the pandemic. Nonfatal opioid overdose emergency
14 department visits have also been increasing. From 2018 to 2021, 1,631
15 individuals visited an emergency department for an opioid overdose.

16 (2) Research has consistently shown that public health strategies are
17 effective at reducing overdose deaths, reducing the transmission of infectious
18 diseases, and improving health outcomes for individuals who use drugs.

19 (3) Investments in criminal justice approaches have proven ineffective
20 in reducing overdose. Despite more than 10,000 arrests for drug possession

1 offenses since 2010, fatal drug overdoses have continued to rise during this
2 period.

3 (4) The medical and public understanding that addiction is a chronic
4 brain disease has increased in recent years, yet Vermont's laws have continued
5 to reflect a punitive criminal justice model that has been ineffective in
6 improving public health and has itself caused extensive harm.

7 (5) The criminalization of drug use has profoundly negative impacts on
8 individuals, families, and communities. The stigma of a criminal arrest or
9 conviction often results in detrimental psychological and economic impacts on
10 the lives of those arrested. Involvement in the criminal legal system can
11 interfere with employment, housing, educational opportunities, and
12 professional licensing and lead to burdensome debt from fines. According to a
13 2020 report by the Brennan Center for Justice, individuals convicted of a
14 misdemeanor have their annual earnings reduced by an average of 16 percent.
15 Arrests and prosecutions can also further traumatize individuals who were
16 previously experiencing pain or suffering from prior traumatic events or
17 circumstances.

18 (6) Studies have also repeatedly found that periods of incarceration
19 substantially increase the risk of fatal overdose. Within the first two weeks of
20 release from incarceration, an individual is substantially more likely to die
21 from a fatal overdose than a person who was not detained.

1 (7) Enforcement of the drug laws in Vermont, as well as nationally, also
2 falls disproportionately on persons of color despite similar rates in usage and
3 sale of drugs. Prior to Vermont’s legalization of cannabis in 2018, Black
4 persons were six times more likely to be arrested for cannabis possession than
5 White persons. A 2021 study conducted by the Council for State Governments
6 found that between 2014 and 2019, Black persons in Vermont were 14 times
7 more likely than White persons to be defendants in a felony drug case and 18
8 percentage points more likely than White persons to be sentenced to
9 incarceration for a felony drug offense.

10 (8) A health-based approach to drugs, prioritizing the expansion of harm
11 reduction services and on-demand access to evidence-based treatment, rather
12 than the traditional criminal justice model, has proven to be more effective at
13 preventing opioid deaths and drug-related injuries, reducing the spread of HIV
14 and Hepatitis C, and improving health outcomes for persons who use drugs. In
15 particular, harm-reduction interventions such as drug-checking services and
16 overdose prevention centers have been implemented throughout the world with
17 demonstrated success in saving lives and facilitating access to health care and
18 services for participants.

19 (9) Drug-checking services allow individuals who use drugs to identify
20 the actual contents of a substance they may intend to take and therefore reduce
21 harms associated with consuming an unknown substance. Making drug-

1 checking equipment and services available to the public without the risk of
2 arrest or prosecution would reduce the risk of accidental death and
3 hospitalizations and also allow for real-time tracking of local drug trends.

4 (10) Throughout the last decade in Vermont, the approach to drugs has
5 gradually shifted toward emphasizing policies focused on prevention,
6 treatment, and harm reduction rather than punishment. In recent years, the
7 General Assembly has enacted legislation decriminalizing possession of the
8 opiate disorder treatment drug buprenorphine, granting immunity from
9 prosecution for possession of drugs for a person who seeks assistance for
10 themselves or another who is experiencing an overdose, and providing
11 widespread access to naloxone to treat opiate overdoses in an emergency.

12 (11) Eliminating criminal penalties for possessing personal use amounts
13 of regulated drugs would continue this progress in shifting toward a fully
14 public-health approach to drug use and addiction by helping eliminate barriers
15 for those who need supportive services. Such a strategic shift will also allow
16 Vermont to redirect money and resources from prosecution and incarceration
17 toward prevention, harm reduction strategies, and addiction services, affording
18 better outcomes for all Vermonters.

19 Sec. 2. 18 V.S.A. § 4201 is amended to read:

20 § 4201. DEFINITIONS

21 As used in this chapter, ~~unless the context otherwise requires:~~

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(6) “Depressant or stimulant drug” means:

(A) any drug that contains any quantity of barbituric acid or any of the salts of barbituric acid, or any derivative of barbituric acid, that is designated as habit-forming because of its effect on the central nervous system in the rules adopted by the Board of Health under section 4202 of this title;

(B) any drug, other than methamphetamine, that contains any quantity of amphetamine or any of its optical isomers, any salt ~~of~~ of amphetamine, or any salt of an optical isomer of amphetamine; that the Board of Health so designates by such rule as habit-forming because of its effect on the central nervous system;

(C) gamma hydroxybutyric acid, including its salts, isomers, or salts of isomers;

(D) gamma butyrolactone, including 4-butyrolactone and gamma hydroxybutyric acid lactone, including its salts, isomers, or salts of isomers, when packaged, marketed, manufactured, or intended for human consumption;

(E) ketamine, including its salts, isomers, or salts of isomers;

(F) flunitrazepam, including its salts, isomers, or salts of isomers; and

(G) any drug, other than methamphetamine, that contains any quantity of a substance that the Board of Health so designates by such rule as

1 having a serious potential for abuse arising out of its effect on the central
2 nervous system.

3 * * *

4 (10) “Hallucinogenic drugs” means stramonium, mescaline or peyote,
5 lysergic acid diethylamide, and psilocybin, and all synthetic equivalents of
6 chemicals contained in resinous extractives of Cannabis sativa, or any salts or
7 derivatives or compounds of any preparations or mixtures thereof, and any
8 other substance that is designated as habit-forming or as having a serious
9 potential for abuse arising out of its effect on the central nervous system or its
10 hallucinogenic effect in the rules adopted by the Board of Health under
11 section 4202 of this title.

12 * * *

13 (16) “Narcotic,” “narcotics,” or “narcotic drugs” means opium, coca
14 leaves, pethidine (isonipecaïne, meperidine), and opiates or their compound,
15 manufacture, salt, alkaloid, or derivative, and every substance neither
16 chemically nor physically distinguishable from them, and preparations
17 containing such drugs or their derivatives, by whatever trade name identified
18 and whether produced directly or indirectly by extraction from substances of
19 vegetable origin, or independently by means of chemical synthesis or by a
20 combination of extraction and chemical synthesis, as the same are so

1 designated in the rules adopted by the Board of Health under section 4202 of
2 this title.

3 * * *

4 (29) “Regulated drug” means:

5 (A) a narcotic drug;

6 (B) a depressant or stimulant drug, other than methamphetamine;

7 (C) a hallucinogenic drug;

8 (D) Ecstasy;

9 (E) cannabis; or

10 (F) methamphetamine.

11 * * *

12 (45) “Benchmark personal use supply” means the quantity of a drug
13 commonly possessed for consumption by an individual for any therapeutic,
14 medicinal, or recreational purpose.

15 (46) “Drug-checking” means the testing of a substance to determine its
16 chemical composition or assist in determining whether the substance contains
17 contaminants, toxic substances, or hazardous compounds.

18 Sec. 3. 18 V.S.A. § 4202 is amended to read:

19 § 4202. POWERS AND DUTIES OF THE BOARD OF HEALTH

20 (a) The Board of Health is authorized and empowered to adopt such rules
21 that in its judgment may be necessary or proper to supplement the provisions

1 of this chapter to effectuate the purposes and intent thereof or to clarify its
2 provisions so as to provide the procedure or details to secure effective and
3 proper enforcement of its provisions.

4 (b) These rules and determinations, when adopted, shall, until modified or
5 rescinded, have the force and effect of law.

6 * * *

7 (e) The Board of Health shall adopt rules reflecting the benchmarks
8 recommended by the Drug Use Standards Advisory Board in accordance with
9 section 4202a of this title.

10 Sec. 4. 18 V.S.A. § 4202a is added to read:

11 § 4202a. DRUG USE STANDARDS ADVISORY BOARD

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

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

1 (c) The members of the Drug Use Standards Advisory Board shall, upon
2 first convening, select by majority vote a member to serve as the chair of the
3 Board. Upon any subsequent chair vacancy, the members shall likewise select
4 a new Board chair. After receiving nominations from harm reduction service
5 providers, the Chair shall appoint three consumer representatives to the Board
6 who have lived experience in drug use and consumption practices. The Chair
7 and the three consumer representatives shall appoint the remaining Board
8 members as follows:

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

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

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

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

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

14 School Center for Justice Reform; and

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

16 (d) On or before January 1, 2025, the Drug Use Standards Advisory Board
17 shall provide the recommended quantities for both the benchmark personal use
18 dosage and benchmark personal use supply for each category of regulated drug
19 listed in subdivision 4201(29) of this title.

20 (e) The Drug Use Standards Advisory Board shall convene at least one
21 time per year to review benchmarks established pursuant to this section and

1 recommend any necessary amendments. The Chair of the Drug Use Standards
2 Advisory Board may, with the consent of a majority of Board members,
3 convene additional meetings to receive testimony from experts on drug use,
4 substance use disorder, and medical research or practice relating to any
5 specific drug.

6 (f) Upon receipt of the benchmark recommendations, the Board of Health
7 shall expeditiously adopt the benchmark recommendations through
8 rulemaking. The Board shall initiate rulemaking not later than September 1,
9 2023.

10 Sec. 5. 18 V.S.A. § 4231 is amended to read:

11 § 4231. COCAINE

12 (a) Possession.

13 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
14 subdivision (1), a person knowingly and unlawfully possessing cocaine shall
15 be imprisoned not more than one year or fined not more than \$2,000.00, or
16 both.

17 (B) A person knowingly and unlawfully possessing cocaine in an
18 amount less than a benchmark personal use supply shall be assessed a civil
19 penalty of not more than \$50.00.

20 (2) A person knowingly and unlawfully possessing cocaine in an
21 amount consisting of 2.5 grams or more of one or more preparations,

1 compounds, mixtures, or substances containing cocaine shall be imprisoned
2 not more than five years or fined not more than \$100,000.00, or both.

3 (3) A person knowingly and unlawfully possessing cocaine in an
4 amount consisting of one ounce or more of one or more preparations,
5 compounds, mixtures, or substances containing cocaine shall be imprisoned
6 not more than 10 years or fined not more than \$250,000.00, or both.

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

8 (b) Selling or dispensing.

9 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
10 subdivision (1), a person knowingly and unlawfully dispensing cocaine shall
11 be imprisoned not more than three years or fined not more than \$75,000.00, or
12 both.

13 (B) A person knowingly and unlawfully dispensing cocaine in an
14 amount less than a benchmark personal use supply shall be assessed a civil
15 penalty of not more than \$50.00.

16 (C) A person knowingly and unlawfully selling cocaine shall be
17 imprisoned not more than five years or fined not more than \$100,000.00, or
18 both.

19 (2) A person knowingly and unlawfully selling or dispensing cocaine in
20 an amount consisting of 2.5 grams or more of one or more preparations,

1 compounds, mixtures, or substances containing cocaine shall be imprisoned
2 not more than 10 years or fined not more than \$250,000.00, or both.

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

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

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

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

5 Sec. 6. 18 V.S.A. § 4232 is amended to read:

6 § 4232. LSD

7 (a) Possession.

8 (1)(A) ~~Except as otherwise provided in subdivision (B) of this~~
9 subdivision (1), a person knowingly and unlawfully possessing lysergic acid
10 diethylamide shall be imprisoned not more than one year or fined not more
11 than \$2,000.00, or both.

12 (B) A person knowingly and unlawfully possessing lysergic acid
13 diethylamide in an amount less than a benchmark personal use supply shall be
14 assessed a civil penalty of not more than \$50.00.

15 (2) A person knowingly and unlawfully possessing lysergic acid
16 diethylamide in an amount consisting of 100 milligrams or more of one or
17 more preparations, compounds, mixtures, or substances containing lysergic
18 acid diethylamide shall be imprisoned not more than five years or fined not
19 more than \$25,000.00, or both.

20 (3) A person knowingly and unlawfully possessing lysergic acid
21 diethylamide in an amount consisting of one gram or more of one or more

1 preparations, compounds, mixtures, or substances containing lysergic acid
2 diethylamide shall be imprisoned not more than 10 years or fined not more
3 than \$100,000.00, or both.

4 (4) A person knowingly and unlawfully possessing lysergic acid
5 diethylamide in an amount consisting of 10 grams or more of one or more
6 preparations, compounds, mixtures, or substances containing lysergic acid
7 diethylamide shall be imprisoned not more than 20 years or fined not more
8 than \$500,000.00, or both.

9 (b) Selling or dispensing.

10 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
11 subdivision (1), a person knowingly and unlawfully dispensing lysergic acid
12 diethylamide shall be imprisoned not more than three years or fined not more
13 than \$25,000.00, or both.

14 (B) A person knowingly and unlawfully dispensing lysergic acid
15 diethylamide in an amount less than a benchmark personal use supply shall be
16 assessed a civil penalty of not more than \$50.00.

17 (C) A person knowingly and unlawfully selling lysergic acid
18 diethylamide shall be imprisoned not more than five years or fined not more
19 than \$25,000.00, or both.

20 (2) A person knowingly and unlawfully selling or dispensing lysergic
21 acid diethylamide in an amount consisting of 100 milligrams or more of one or

1 more preparations, compounds, mixtures, or substances containing lysergic
2 acid diethylamide shall be imprisoned not more than 10 years or fined not
3 more than \$100,000.00, or both.

4 (3) A person knowingly and unlawfully selling or dispensing lysergic
5 acid diethylamide in an amount consisting of one gram or more of one or more
6 preparations, compounds, mixtures, or substances containing lysergic acid
7 diethylamide shall be imprisoned not more than 20 years or fined not more
8 than \$500,000.00, or both.

9 Sec. 7. 18 V.S.A. § 4233 is amended to read:

10 § 4233. HEROIN

11 (a) Possession.

12 (1)~~(A)~~ Except as otherwise provided in subdivision (B) of this
13 subdivision (1), a person knowingly and unlawfully possessing heroin shall be
14 imprisoned not more than one year or fined not more than \$2,000.00, or both.

15 (B) A person knowingly and unlawfully possessing heroin in an
16 amount less than a benchmark personal use supply shall be assessed a civil
17 penalty of not more than \$50.00.

18 (2) A person knowingly and unlawfully possessing heroin in an amount
19 consisting of 200 milligrams or more of one or more preparations, compounds,
20 mixtures, or substances containing heroin shall be imprisoned not more than
21 five years or fined not more than \$100,000.00, or both.

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

5 (4) A person knowingly and unlawfully possessing heroin in an amount
6 consisting of two grams or more of one or more preparations, compounds,
7 mixtures, or substances containing heroin shall be imprisoned not more than
8 20 years or fined not more than \$1,000,000.00, or both.

9 (b) Selling or dispensing.

10 (1)~~(A)~~ Except as otherwise provided in subdivision (B) of this
11 subdivision (1), a person knowingly and unlawfully dispensing heroin shall be
12 imprisoned not more than three years or fined not more than \$75,000.00, or
13 both.

14 (B) A person knowingly and unlawfully dispensing heroin in an
15 amount less than a benchmark personal use supply shall be assessed a civil
16 penalty of not more than \$50.00.

17 (C) A person knowingly and unlawfully selling heroin shall be
18 imprisoned not more than five years or fined not more than \$100,000.00, or
19 both.

20 (2) A person knowingly and unlawfully selling or dispensing heroin in
21 an amount consisting of 200 milligrams or more of one or more preparations,

1 compounds, mixtures, or substances containing heroin shall be imprisoned not
2 more than 10 years or fined not more than \$250,000.00, or both.

3 (3) A person knowingly and unlawfully selling or dispensing heroin in
4 an amount consisting of one gram or more of one or more preparations,
5 compounds, mixtures, or substances containing heroin shall be imprisoned not
6 more than 20 years or fined not more than \$1,000,000.00, or both.

7 * * *

8 Sec. 8. 18 V.S.A. § 4234 is amended to read:

9 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

10 (a) Possession.

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

15 (B) A person knowingly and unlawfully possessing a depressant,
16 stimulant, or narcotic drug, other than heroin or cocaine, in an amount less than
17 a benchmark personal use supply shall be assessed a civil penalty of not more
18 than \$50.00.

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.

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.

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.

13 (b) Selling or dispensing.

14 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
15 subdivision (1), a person knowingly and unlawfully dispensing a depressant,
16 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be
17 imprisoned not more than three years or fined not more than \$75,000.00, or
18 both.

19 (B) A person knowingly and unlawfully dispensing a depressant,
20 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, in an

1 amount less than a benchmark personal use supply shall be assessed a civil
2 penalty of not more than \$50.00.

3 (C) A person knowingly and unlawfully selling a depressant,
4 stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin, shall be
5 imprisoned not more than five years or fined not more than \$25,000.00, or
6 both.

7 (2) A person knowingly and unlawfully selling or dispensing a
8 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
9 consisting of 100 times a benchmark unlawful dosage or its equivalent as
10 determined by the Board of Health by rule shall be imprisoned not more than
11 10 years or fined not more than \$100,000.00, or both.

12 (3) A person knowingly and unlawfully selling or dispensing a
13 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
14 consisting of 1,000 times a benchmark unlawful dosage or its equivalent as
15 determined by the Board of Health by rule shall be imprisoned not more than
16 20 years or fined not more than \$500,000.00, or both.

17 Sec. 9. 18 V.S.A. § 4234a is amended to read:

18 § 4234a. METHAMPHETAMINE

19 (a) Possession.

20 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
21 subdivision (1), a person knowingly and unlawfully possessing

1 methamphetamine shall be imprisoned not more than one year or fined not
2 more than \$2,000.00, or both.

3 (B) A person knowingly and unlawfully possessing
4 methamphetamine in an amount less than a benchmark personal use supply
5 shall be assessed a civil penalty of not more than \$50.00.

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

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

16 (b) Selling and dispensing.

17 (1)(A) A Except as otherwise provided in subdivision (B) of this
18 subdivision (1), a person knowingly and unlawfully dispensing
19 methamphetamine shall be imprisoned not more than three years or fined not
20 more than \$75,000.00, or both.

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

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

6 (A) if the offense involves possession of less than a benchmark
7 personal use supply, shall be assessed a civil penalty of not more than \$50.00;

8 (B) if the offense involves possession of less than nine grams of
9 ephedrine base, pseudoephedrine base, or phenylpropanolamine base, shall be
10 imprisoned not more than one year or fined not more than \$2,000.00, or both;
11 or

12 ~~(B)~~(C) if the offense involves possession of nine or more grams of
13 ephedrine base, pseudoephedrine base, or phenylpropanolamine base, shall be
14 imprisoned not more than five years or fined not more than \$100,000.00, or
15 both.

16 * * *

17 Sec. 11. 18 V.S.A. § 4235 is amended to read:

18 § 4235. HALLUCINOGENIC DRUGS

19 (a) “Dose” of a hallucinogenic drug means that minimum amount of a
20 hallucinogenic drug, not commonly used for therapeutic purposes, ~~which~~ that
21 causes a substantial hallucinogenic effect. The Board of Health shall adopt

1 rules ~~which~~ that establish doses for hallucinogenic drugs. The Board may
2 incorporate, where applicable, dosage calculations or schedules, whether
3 described as “dosage equivalencies” or otherwise, established by the federal
4 government.

5 (b) Possession.

6 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
7 subdivision (1), a person knowingly and unlawfully possessing a
8 hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned
9 not more than one year or fined not more than \$2,000.00, or both.

10 (B) A person knowingly and unlawfully possessing a hallucinogenic
11 drug, other than lysergic acid diethylamide, in an amount less than a
12 benchmark personal use supply shall be assessed a civil penalty of not more
13 than \$50.00.

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

18 (3) A person knowingly and unlawfully possessing 100 or more doses of
19 a hallucinogenic drug, other than lysergic acid diethylamide, shall be
20 imprisoned not more than 10 years or fined not more than \$100,000.00, or
21 both.

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

5 (c) Selling or dispensing.

6 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
7 subdivision (1), a person knowingly and unlawfully dispensing a
8 hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned
9 not more than three years or fined not more than \$25,000.00, or both.

10 (B) A person knowingly and unlawfully dispensing a hallucinogenic
11 drug, other than lysergic acid diethylamide, in an amount less than a
12 benchmark personal use supply shall be assessed a civil penalty of not more
13 than \$50.00.

14 (C) A person knowingly and unlawfully selling a hallucinogenic
15 drug, other than lysergic acid diethylamide, shall be imprisoned not more than
16 five years or fined not more than \$25,000.00, or both.

17 (2) A person knowingly and unlawfully selling or dispensing 10 or more
18 doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be
19 imprisoned not more than 10 years or fined not more than \$100,000.00, or
20 both.

1 (3) A person knowingly and unlawfully selling or dispensing 100 or
2 more doses of a hallucinogenic drug, other than lysergic acid diethylamide,
3 shall be imprisoned not more than 15 years or fined not more than
4 \$500,000.00, or both.

5 Sec. 12. 18 V.S.A. § 4235a is amended to read:

6 § 4235a. ECSTASY

7 (a) Possession.

8 (1)~~(A)~~ Except as otherwise provided in subdivision (B) of this
9 subdivision (1), a person knowingly and unlawfully possessing Ecstasy shall
10 be imprisoned not more than one year or fined not more than \$2,000.00, or
11 both.

12 (B) A person knowingly and unlawfully possessing Ecstasy in an
13 amount less than a benchmark personal use supply shall be assessed a civil
14 penalty of not more than \$50.00.

15 (2) A person knowingly and unlawfully possessing Ecstasy in an
16 amount consisting of two grams or more of one or more preparations,
17 compounds, mixtures, or substances containing Ecstasy shall be imprisoned
18 not more than five years or fined not more than \$25,000.00, or both.

19 (3) A person knowingly and unlawfully possessing Ecstasy in an
20 amount consisting of 20 grams or more of one or more preparations,

1 compounds, mixtures, or substances containing Ecstasy shall be imprisoned
2 not more than 10 years or fined not more than \$100,000.00, or both.

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

7 (b) Selling or dispensing.

8 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
9 subdivision (1), a person knowingly and unlawfully dispensing Ecstasy shall
10 be imprisoned not more than three years or fined not more than \$25,000.00, or
11 both.

12 (B) A person knowingly and unlawfully dispensing Ecstasy in an
13 amount less than a benchmark personal use supply shall be assessed a civil
14 penalty of not more than \$50.00.

15 (C) A person knowingly and unlawfully selling Ecstasy shall be
16 imprisoned not more than five years or fined not more than \$25,000.00, or
17 both.

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

1 (3) A person knowingly and unlawfully selling or dispensing Ecstasy in
2 an amount consisting of 20 grams or more of one or more preparations,
3 compounds, mixtures, or substances containing Ecstasy shall be imprisoned
4 not more than 20 years or fined not more than \$500,000.00, or both.

5 Sec. 13. 18 V.S.A. § 4235b is added to read:

6 § 4235b. HEALTH NEEDS SCREENING; WAIVER OF CIVIL

7 PENALTIES

8 (a) A person who is cited pursuant to this chapter for a civil violation
9 relating to possessing or dispensing less than the benchmark personal use
10 supply of a regulated drug shall be offered a comprehensive health needs
11 screening. A law enforcement officer who issues the notice of violation shall
12 provide the person with information for participating in a screening from the
13 VT Helplink Alcohol and Drug Support Center. A person who completes the
14 screening shall not be subject to the \$50.00 civil penalty.

15 (b) VT Helplink shall develop a standard referral form for screenings. A
16 law enforcement officer shall provide the referral form to the person with a
17 copy of the notice of violation.

18 (c) To receive the waiver of the penalty, the person shall contact VT
19 Helplink within 15 days after the issuance of the summons to schedule or
20 complete the screening. The screening shall be completed within 15 days after
21 the person contacting VT Helplink pursuant to this section. Completion of the

1 health screening shall not be deemed an admission of any kind by the person
2 issued a citation, and the court shall not make any legal findings based on the
3 issuance of the notice of violation. Upon completion of the screening, VT
4 Helplink shall provide confirmation of participation to the person and to the
5 Judicial Bureau. The court shall waive the penalty within 15 days after receipt
6 of the confirmation of participation in the health screening.

7 (d) A person who is cited pursuant to this chapter for a civil violation
8 relating to possessing or dispensing less than the benchmark personal use
9 supply of a regulated drug shall not be required to pay the \$50.00 civil penalty
10 if the person has been diagnosed with substance use disorder. To receive a
11 waiver of the penalty, the person shall provide written confirmation of the
12 diagnosis from the person's health care provider to the Judicial Bureau within
13 15 days after the issuance of the summons and complaint. Health information
14 obtained pursuant to this section shall be used solely for the purpose of
15 completing a waiver of civil penalties and shall not be retained by the Judicial
16 Bureau upon issuance of such a waiver.

17 (e) A civil violation relating to possessing or dispensing less than the
18 benchmark personal use supply of a regulated drug shall not be subject to
19 interest or compounding, and no fees may be issued for processing the waiver
20 of a civil penalty pursuant to this section.

1 (f) Notwithstanding any other provision of law, a person who is issued a
2 notice of violation and does not pay the penalty shall not be subject to any
3 further criminal penalty, including imprisonment.

4 Sec. 14. 18 V.S.A. § 4240a is added to read:

5 § 4240a. OVERDOSE PREVENTION; DRUG-CHECKING FOR
6 CONTAMINANT DETECTION

7 (a) Notwithstanding any other provision of law, it shall not be a violation of
8 this chapter to receive samples, possess, transport, store, or mail samples of a
9 substance that may contain a regulated drug solely for purposes of analyzing
10 such substance to determine its chemical composition and disseminate
11 information regarding such analysis to the provider of such substance.

12 (b) On-site community drug-checking service providers authorized by the
13 Vermont Department of Health shall be permitted to:

14 (1) collect voluntarily provided residual samples of substances
15 potentially containing regulated drugs, possess samples, transport, store, or
16 mail samples of regulated drug solely for purposes of analyzing such
17 substances to determine its chemical composition as a lifesaving intervention;

18 (2) use any available technologies to analyze the contents of samples to
19 obtain timely, highly accurate information regarding the composition of drugs
20 to prevent overdose and mitigate health risks;

1 (3) provide results of analysis obtained from drug-checking technology
2 to the person requesting drug services;

3 (4) disseminate data containing only the results of analysis and
4 containing no personally identifiable information to community members at
5 risk of overdose; and

6 (5) if necessary, arrange for a sample of a drug or substance to be tested
7 by an approved laboratory.

8 (c) In operating any drug-checking service, no personally identifiable
9 information shall be collected from a person providing a controlled substance
10 to a service provider.

11 (d) An employee, contractor, volunteer, or other person acting in the good
12 faith provision of drug-checking services authorized by the Department, acting
13 in accordance with established protocols, shall not:

14 (1) be subject to arrest, charge, or prosecution for a violation pursuant to
15 this chapter, including for attempting to, aiding and abetting in, or conspiracy
16 to commit a violation of this chapter;

17 (2) have their property subject to forfeiture, any civil or administrative
18 penalty, or liability of any kind, including disciplinary action by a professional
19 licensing board, credentialing restrictions, contractual or civil liability, or
20 medical staff or other employment action; or

1 (3) be denied any right or privilege for actions, conduct, or omissions
2 relating to the operation of a drug-checking service in compliance with this
3 chapter and any rules adopted pursuant to this chapter.

4 (e) An individual possessing a regulated substance and who provides any
5 portion of such substance to a program authorized by the Department pursuant
6 to this section for purposes of obtaining drug-checking services shall not be
7 subject to arrest, charge, or prosecution for possession of a regulated substance
8 pursuant to this chapter, or civil or administrative penalty or disciplinary action
9 by a professional licensing board for a violation of this chapter;

10 (f) The Department and local governments authorized by the Department
11 shall not collect, maintain, use, or disclose any personal information relating to
12 an individual from whom the Department or local government receives any
13 drug or substance for checking or disposal.

14 (g) The result of a test carried out by an authorized drug-checking service
15 provider shall not be admissible as evidence in any criminal or civil
16 proceeding.

17 (h) The Department shall initiate rulemaking not later than September 1,
18 2023.

19 Sec. 15. APPROPRIATION

20 In fiscal year 2024, \$300,000.00 shall be appropriated from the General
21 Fund to the Department of Health's Division of Substance Use Programs to

1 award one or more grants to an organization or organizations providing or
2 preparing to implement drug-checking services with spectroscopy devices,
3 including high-pressure mass spectrometer (HPMS) or Fourier-transform
4 infrared spectroscopy device (FTIR) in a harm reduction setting. The Division
5 shall award grants based on an applicant's ability to provide publicly available
6 drug-checking services.

7 Sec. 16. IMPACTS OF REDUCING CRIMINAL PENALTIES; REPORT

8 On or before January 15, 2024, the Secretary of Administration shall report
9 to the General Assembly regarding the budgetary impacts that projected to
10 result from the elimination of criminal penalties for persons in possession of
11 personal-use quantities of criminal substances in Vermont. The report shall
12 analyze any budgetary impacts such as reductions in expenditures.

13 Sec. 17. 4 V.S.A. § 1102 is amended to read:

14 § 1102. JUDICIAL BUREAU; JURISDICTION

15 * * *

16 (b) The Judicial Bureau shall have jurisdiction of the following matters:

17 * * *

18 (31) Violations of 18 V.S.A. chapter 84, subchapter 1, relating to
19 possessing or dispensing less than the benchmark personal use supply of a
20 regulated drug.

21 * * *

1 Sec. 18. EFFECTIVE DATES

2 (a) This section and Secs. 1 (findings), 2 (definitions), 3 (Board of Health),
3 4 (Drug Use Standards Advisory Board), 15 (appropriation), and 16 (report)
4 shall take effect on passage.

5 (b) Secs. 5–14 and 17 shall take effect on January 1, 2026.