

**Recommendation from House Judiciary to House Human Services Re: Sec 12 of
H.222 Senate Proposal of Amendment**

Sec. 12. 18 V.S.A. § 4240a is added to read:

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

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

(b) On-site community drug-checking service providers shall be permitted to:

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

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

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

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

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

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

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

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

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

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

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

on the individual's use or attempted use of drug-checking services in accordance with this section.

(f) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of an individual seeking drug-checking services or an individual acting in the good faith provision of drug-checking services in accordance with established protocols and do not preclude prosecution of the individual on the basis of evidence obtained from an independent source.

(g) Local governments shall not collect, maintain, use, or disclose any personal information relating to an individual from whom local government receives any drug or substance for checking or disposal.

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

(i) The Department of Health shall publish guidance and provide technical assistance for any service provider choosing to implement drug-checking services under this section.

(2) The Department shall coordinate the collection and dissemination of deidentified data related to drug-checking services to inform prevention and public health initiatives.