

1 TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 58
3 entitled “An act relating to increasing the penalties for subsequent offenses for
4 trafficking and dispensing or sale of a regulated drug with death resulting”
5 respectfully reports that it has considered the same and recommends that the
6 bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

8 Sec. 1. 18 V.S.A. § 4201 is amended to read:

9 § 4201. DEFINITIONS

10 * * *

11 (29) “Regulated drug” means:

- 12 (A) a narcotic drug;
- 13 (B) a depressant or stimulant drug, other than methamphetamine;
- 14 (C) a hallucinogenic drug;
- 15 (D) Ecstasy;
- 16 (E) cannabis; ~~or~~
- 17 (F) methamphetamine; or
- 18 (G) xylazine.

19 * * *

20 (48) “Fentanyl” means any quantity of fentanyl, including any
21 compound, mixture, or preparation including salts, isomers, or salts of isomers

1 containing fentanyl. “Fentanyl” also means fentanyl-related substances as
2 defined in rules adopted by the Department of Health pursuant to section 4202
3 of this title.

4 (49) “Knowingly” means actual knowledge that one or more
5 preparations, compounds, mixtures, or substances contains the regulated drug
6 identified in the applicable section of this chapter, or consciously ignoring a
7 substantial risk that one or more preparations, compounds, mixtures, or
8 substances contains the regulated drug identified in the applicable section of
9 this chapter.

10 (50) “Xylazine” means any compound, mixture, or preparation
11 including salts, isomers, or salts of isomers containing xylazine.

12 Sec. 2. 18 V.S.A. § 4233b is added to read:

13 § 4233b. XYLAZINE

14 (a)(1) It is unlawful for any person to engage in any of the following illicit
15 uses of xylazine:

16 (A) any use in the human species; or

17 (B) any use that is not a licit use.

18 (2) Licit use of xylazine means:

19 (A) any administration to nonhuman species:

1 (i) of a drug containing xylazine that has been approved by the
2 U.S. Secretary of Health and Human Services under section 512 of the Federal
3 Food, Drug, and Cosmetic Act, 21 U.S.C. § 360b; or

4 (ii) that is permissible under section 512(a)(4) of the Federal Food,
5 Drug, and Cosmetic Act, 21 U.S.C. § 360b(a)(4);

6 (B) the manufacturing, importation, or use of xylazine as an active
7 pharmaceutical ingredient for manufacturing an animal drug approved under
8 section 512 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 360b or
9 issued an investigation use exemption under subsection (j) of section 512;

10 (C) the manufacturing, importation, or use of a xylazine bulk
11 chemical for pharmaceutical compounding by licensed pharmacists or
12 veterinarians; or

13 (D) another use approved or permissible under the Federal Food,
14 Drug, and Cosmetic Act, as provided in 21 U.S.C. § 301 et seq.

15 (b) A person knowingly and unlawfully dispensing xylazine shall be
16 imprisoned not more than three years or fined not more than \$75,000.00, or
17 both. A person knowingly and unlawfully selling xylazine shall be imprisoned
18 not more than five years or fined not more than \$100,000.00, or both.

19 Sec. 3. 18 V.S.A. § 4250 is amended to read:

20 § 4250. SELLING OR DISPENSING A REGULATED DRUG WITH
21 DEATH RESULTING

1 (a) If the death of a person results from the selling or dispensing of a
2 regulated drug to the person in violation of this chapter, the person convicted
3 of the violation shall be imprisoned not less than two years nor more than 20
4 years.

5 (b) This section shall apply only if the person’s use of the regulated drug is
6 the proximate cause of ~~his or her~~ the person’s death. The fact that a dispensed
7 or sold substance contains more than one regulated drug shall not be a defense
8 under this section if the proximate cause of death is the use of the dispensed or
9 sold substance containing more than one regulated drug. There shall be a
10 permissive inference that the proximate cause of death is the person’s use of
11 the regulated drug if the regulated drug contains fentanyl.

12 (c)(1) Except as provided in subdivision (2) of this subsection, the two-year
13 minimum term of imprisonment required by this section shall be served and
14 may not be suspended, deferred, or served as a supervised sentence. The
15 defendant shall not be eligible for probation, parole, furlough, or any other type
16 of early release until the expiration of the two-year term of imprisonment.

17 (2) Notwithstanding subdivision (1) of this subsection, the court may
18 impose a sentence that does not include a term of imprisonment or that
19 includes a term of imprisonment of less than two years if the court makes
20 written findings on the record that the sentence will serve the interests of
21 justice.

1 Sec. 4. 18 V.S.A. § 4252a is added to read:

2 § 4252a. UNLAWFUL DRUG ACTIVITY IN A DWELLING; FLASH

3 CITATION; CONDITIONS OF RELEASE

4 (a) Except for good cause shown, a person cited or arrested for dispensing
5 or selling a regulated drug in violation of this chapter shall be arraigned on the
6 next business day after the citation or arrest if the alleged illegal activity
7 occurred at a dwelling where the person is not a legal tenant.

8 (b) Unless the person is held without bail for another offense, the State’s
9 Attorney shall request conditions of release for a person subject to subsection
10 (a) of this section. The court may include as a condition of release that the
11 person is prohibited from coming within a fixed distance of the dwelling.

12 Sec. 5. EFFECTIVE DATE

13 This act shall take effect on July 1, 2024.

14 and that after passage the title of the bill be amended to read: “An act
15 relating to ___”

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1 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE