

Differences Between Senate and House on Drugs Provisions in S.58

Sec. 13. Definitions

Same, except House version removed definition of “knowingly” so it doesn’t apply to the entire regulated drug chapter and added a new definition of “knowingly” only in 18 V.S.A. § 4233a (fentanyl) and 18 V.S.A. § 4234 (depressant, stimulant, and narcotic drugs) in two new sections (See on back page).

Sec. 14 in Senate; Sec. 16 in House; Xylazine

Same

Sec. 15 in Senate; Sec. 17 in House; Selling or dispensing a regulated drug with death resulting

Same except House struck last sentence of subsection (b): “There shall be a permissive inference that the proximate cause of death is the person’s use of the regulated drug if the regulated drug contains fentanyl.”

Sec. 16 in Senate; Sec. 18 in House; Unlawful drug activity in a dwelling; flash citation

Subsection (a) is the same; House struck subsection (b): “Unless the person is held without bail for another offense, the State’s Attorney shall request conditions of release for a person subject to subsection (a) of this section. The court may include as a condition of release that the person is prohibited from coming within a fixed distance of the dwelling.”

Sec. 17 in Senate; Sec. 19 in House; Good Samaritan

Same.

New Secs. 14 (fentanyl) and 15 (depressant, stimulant, and narcotic drugs) in House Version

Rather than create a new definition of “knowingly” for all drug crimes in chapter 84, the House created a new definition of “knowingly” only for dispensing or selling fentanyl, depressants, stimulants, and narcotic drugs.

Senate definition

“Knowingly” means actual knowledge that one or more preparations, compounds, mixtures, or substances contain the regulated drug identified in the applicable section of this chapter, or **consciously ignoring a substantial risk** that one or more preparations, compounds, mixtures, or substances contain the regulated drug identified in the applicable section of this chapter.

House definition

“Knowingly” means:

(A) the defendant had actual knowledge that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; or

(B) the defendant:

(i) **subjectively believed that there is a high probability** that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter; and

(ii) **took deliberate actions to avoid learning** that one or more preparations, compounds, mixtures, or substances contained the regulated drug identified in the applicable section of this chapter.