

H.856

Introduced by Representatives Rachelson of Burlington and Arsenault of
Williston

Referred to Committee on

Date:

Subject: Health; regulated drugs; Drug Use Health and Safety Advisory Board

Statement of purpose of bill as introduced: This bill proposes to establish the
Drug Use Health and Safety Advisory Board for the purpose of determining
the benchmark personal use supply for each regulated drug; decrease low-level
drug possession violations to a penalty of six months' imprisonment or a
\$500.00 fine, or both; and decrease low-level felony drug possession violations
to misdemeanor offenses.

An act relating to possessing regulated drugs and establishing the Drug Use
Health and Safety Advisory Board

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

Sec. 1. 18 V.S.A. § 4202a is added to read:

§ 4202a. DRUG USE HEALTH AND SAFETY ADVISORY BOARD

(a) There is hereby created the Drug Use Health and Safety Advisory
Board composed of experts in the fields of general and behavioral health care,

1 substance use disorder treatment, harm reduction services, and drug user
2 communities.

3 (b) The primary objectives of the Advisory Board shall be to determine the
4 benchmark personal use supply for each regulated drug. The benchmarks
5 determined pursuant to this subsection shall be determined with a goal of
6 preventing and reducing the criminalization of personal drug possession and
7 use.

8 (c) The Advisory Board shall be composed of the following 13 members:

9 (1) two consumer representatives who have lived experience in drug use
10 and consumption practices, appointed by the Senate Committee on
11 Committees;

12 (2) two representatives from harm reduction service providers,
13 appointed by the Senate Committee on Committees;

14 (3) one expert on substance use disorder treatment and recovery, which
15 may include a medical practitioner providing medication for opioid use
16 disorder, appointed by the Senate Committee on Committees;

17 (4) one academic expert specializing in human behavior, addiction, and
18 drug policy, appointed by the Senate Committee on Committees;

19 (5) two consumer representatives who have lived experience in drug use
20 and consumption practices, appointed by the Speaker of the House;

1 (6) two representatives from harm reduction service providers,
2 appointed by the Speaker of the House;

3 (7) one expert on substance use disorder treatment and recovery, which
4 may include a medical practitioner providing medication for opioid use
5 disorder, appointed by the Speaker of the House;

6 (8) one academic expert specializing in human behavior, addiction, and
7 drug policy, appointed by the Speaker of the House; and

8 (9) one expert on legal reform appointed by the Center for Justice
9 Reform at Vermont Law and Graduate School.

10 (d) Upon convening, the members of the Advisory Board shall elect a chair
11 by majority vote and shall fill any vacancy of the Chair by the same. A
12 majority of members shall constitute a quorum.

13 (e) On or before January 1, 2027, the Advisory Board shall provide the
14 recommended quantities for benchmark personal use supply for each category
15 of regulated drug listed in subdivision 4201(29) of this title.

16 (f) The Advisory Board shall convene at least one time per year to review
17 benchmarks established pursuant to this section and recommend any necessary
18 amendments. The Chair of the Advisory Board may, with the consent of a
19 majority of members, convene additional meetings to receive testimony from
20 experts on drug use, substance use disorder, and medical research or practice
21 relating to any specific drug.

1 (g) The Department shall initiate rulemaking to adopt benchmark personal
2 use supplies not later than 90 days following the receipt of recommendations
3 from the Advisory Board. The Department shall give full consideration to the
4 recommendations of the Advisory Board and provide detailed explanations for
5 any deviations from the recommendations of the Advisory Board in the
6 proposed rules.

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

8 § 4231. COCAINE

9 (a) Possession.

10 (1) A person knowingly and unlawfully possessing cocaine shall be
11 imprisoned not more than ~~one year~~ six months or fined not more than
12 ~~\$2,000.00~~ \$500.00, or both.

13 (2) A person knowingly and unlawfully possessing cocaine in an
14 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 ~~five~~ two years or fined not more than ~~\$100,000.00~~ \$5,000.00, or
17 both.

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

1 (4) [Repealed.]

2 * * *

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

4 § 4232. LSD

5 (a) Possession.

6 (1) A person knowingly and unlawfully possessing lysergic acid
7 diethylamide shall be imprisoned not more than ~~one year~~ six months or fined
8 not more than ~~\$2,000.00~~ \$500.00, or both.

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

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

19 (4) A person knowingly and unlawfully possessing lysergic acid
20 diethylamide in an amount consisting of 10 grams or more of one or more
21 preparations, compounds, mixtures, or substances containing lysergic acid

1 diethylamide shall be imprisoned not more than 20 years or fined not more
2 than \$500,000.00, or both.

3 * * *

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

5 § 4233. HEROIN

6 (a) Possession.

7 (1) A person knowingly and unlawfully possessing heroin shall be
8 imprisoned not more than ~~one year~~ six months or fined not more than
9 ~~\$2,000.00~~ \$500.00, or both.

10 (2) A person knowingly and unlawfully possessing heroin in an amount
11 consisting of ~~200 milligrams~~ one gram or more of one or more preparations,
12 compounds, mixtures, or substances containing heroin shall be imprisoned not
13 more than ~~five~~ two years or fined not more than ~~\$100,000.00~~ \$5,000.00, or
14 both.

15 (3) A person knowingly and unlawfully possessing heroin in an amount
16 consisting of ~~one gram~~ 2.5 grams or more of one or more preparations,
17 compounds, mixtures, or substances containing heroin shall be imprisoned not
18 more than ~~40~~ five years or fined not more than \$250,000.00, or both.

19 (4) A person knowingly and unlawfully possessing heroin in an amount
20 consisting of ~~two~~ five grams or more of one or more preparations, compounds,

1 mixtures, or substances containing heroin shall be imprisoned not more than 20
2 years or fined not more than \$1,000,000.00, or both.

3 * * *

4 (c) Trafficking. A person knowingly and unlawfully possessing heroin in
5 an amount consisting of ~~3.5~~ seven grams or more of one or more preparations,
6 compounds, mixtures, or substances containing heroin with the intent to sell ~~or~~
7 ~~dispense~~ the heroin shall be imprisoned not more than 30 years or fined not
8 more than \$1,000,000.00, or both. There shall be a permissive inference that a
9 person who possesses heroin in an amount of ~~3.5~~ seven grams or more of one
10 or more preparations, compounds, mixtures, or substances containing heroin
11 intends to sell ~~or dispense~~ the heroin. The amount of possessed heroin under
12 this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall
13 be ~~no~~ not less than 10 grams in the aggregate.

14 * * *

15 Sec. 5. 18 V.S.A. § 4234 is amended to read:

16 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

17 (a) Possession.

18 (1)(A) Except as provided by subdivision (B) of this subdivision (1), a
19 person knowingly and unlawfully possessing a depressant, stimulant, or
20 narcotic drug, other than heroin or cocaine, shall be imprisoned not more than
21 ~~one year~~ six months or fined not more than ~~\$2,000.00~~ \$500.00, or both.

1 (B) A person knowingly and unlawfully possessing 224 milligrams
2 or less of buprenorphine shall not be punished in accordance with subdivision
3 (A) of this subdivision (1).

4 (2) A person knowingly and unlawfully possessing a depressant,
5 stimulant, or narcotic drug, other than heroin or cocaine, consisting of 100
6 times a benchmark unlawful dosage or its equivalent shall be imprisoned not
7 more than ~~five~~ two years or fined not more than ~~\$25,000.00~~ \$2,000.00, or both.

8 (3) A person knowingly and unlawfully possessing a depressant,
9 stimulant, or narcotic drug, other than heroin or cocaine, consisting of 1,000
10 times a benchmark unlawful dosage or its equivalent shall be imprisoned not
11 more than 10 years or fined not more than \$100,000.00, or both.

12 (4) A person knowingly and unlawfully possessing a depressant,
13 stimulant, or narcotic drug, other than heroin or cocaine, consisting of 10,000
14 times a benchmark unlawful dosage or its equivalent shall be imprisoned not
15 more than 20 years or fined not more than \$500,000.00, or both.

16 (b) Selling or dispensing.

17 (1) A person knowingly and unlawfully dispensing a depressant,
18 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be
19 imprisoned not more than three years or fined not more than \$75,000.00, or
20 both. A person knowingly and unlawfully selling a depressant, stimulant, or

1 narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not
2 more than ~~five~~ two years or fined not more than ~~\$25,000.00~~ \$5,000.00, or both.

3 * * *

4 Sec. 6. 18 V.S.A. § 4234a is amended to read:

5 § 4234a. METHAMPHETAMINE

6 (a) Possession.

7 (1) A person knowingly and unlawfully possessing methamphetamine
8 shall be imprisoned not more than ~~one year~~ six months or fined not more than
9 ~~\$2,000.00~~ \$500.00, or both.

10 (2) A person knowingly and unlawfully possessing methamphetamine in
11 an amount consisting of 2.5 grams or more of one or more preparations,
12 compounds, mixtures, or substances containing methamphetamine shall be
13 imprisoned not more than ~~five~~ two years or fined not more than ~~\$100,000.00~~
14 \$5,000.00, or both.

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

20 * * *

1 Sec. 7. 18 V.S.A. § 4234b is amended to read:

2 § 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

3 (a) Possession.

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

8 (2) A person who violates this subsection shall:

9 (A) if the offense involves possession of less than nine grams of
10 ephedrine base, pseudoephedrine base, or phenylpropanolamine base, be
11 imprisoned not more than ~~one year~~ six months or fined not more than
12 ~~\$2,000.00~~ \$500.00, or both; and

13 (B) if the offense involves possession of nine or more grams of
14 ephedrine base, pseudoephedrine base, or phenylpropanolamine base, be
15 imprisoned not more than ~~five~~ two years or fined not more than ~~\$100,000.00~~
16 \$5,000.00, or both.

17 * * *

18 (d) Applicability. This section shall not apply to a manufacturer that has
19 obtained an exemption from the Attorney General of the United States under
20 Section 711(d) of the federal Combat Methamphetamine Epidemic Act of
21 2005.

1 (e) Definitions. As used in this section:

2 (1) “Distributor” means a person, other than a manufacturer or
3 wholesaler, that sells, delivers, transfers, or in any manner furnishes a drug
4 product to any person that is not the ultimate user or consumer of the product.

5 (2) “Knowingly” means having actual knowledge of the relevant facts.

6 (3) “Manufacturer” means a person that produces, compounds,
7 packages, or in any manner initially prepares a drug product for sale or use.

8 (4) “Wholesaler” means a person, other than a manufacturer, that sells,
9 transfers, or in any manner furnishes a drug product to any other person for the
10 purpose of being resold.

11 Sec. 8. 18 V.S.A. § 4235 is amended to read:

12 § 4235. HALLUCINOGENIC DRUGS

13 (a) Definition. “Dose” of a hallucinogenic drug means that minimum
14 amount of a hallucinogenic drug, not commonly used for therapeutic purposes,
15 that causes a substantial hallucinogenic effect. The Department of Health shall
16 adopt rules that establish doses for hallucinogenic drugs. The Department may
17 incorporate, where applicable, dosage calculations or schedules, whether
18 described as “dosage equivalencies” or otherwise, established by the federal
19 government.

1 (b) Possession.

2 (1) A person knowingly and unlawfully possessing a hallucinogenic
3 drug, other than lysergic acid diethylamide, shall be imprisoned not more than
4 ~~one year~~ six months or fined not more than ~~\$2,000.00~~ \$500.00, or both.

5 (2) A person knowingly and unlawfully possessing 10 or more doses of
6 a hallucinogenic drug, other than lysergic acid diethylamide, shall be
7 imprisoned not more than ~~five~~ two years or fined not more than ~~\$25,000.00~~
8 \$2,000.00, or both.

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

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

17 * * *

18 Sec. 9. 18 V.S.A. § 4235a is amended to read:

19 § 4235a. ECSTASY

20 (a) Possession.

