

S.284

Introduced by Senator Vyhovsky

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; decrease low-level felony drug possession violations to misdemeanor offenses; and eliminate the crime of dispensing regulated drugs, except that dispensing a regulated drug to a person under 21 years of age when the person dispensing is at least three years older would be a five-year felony.

An act relating to possessing and dispensing regulated drugs

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. § 4230 is amended to read:

8 § 4230. CANNABIS

9 (a) Possession and cultivation.

10 (1) No person shall knowingly and unlawfully possess more than one
11 ounce of cannabis or more than five grams of hashish or cultivate more than
12 two mature cannabis plants or four immature cannabis plants. A person who
13 violates this subdivision shall be assessed a civil penalty as follows:

14 (A) not more than \$100.00 for a first offense;

15 (B) not more than \$200.00 for a second offense; and

16 (C) not more than \$500.00 for a third or subsequent offense.

17 (2)(A) No person shall knowingly and unlawfully possess two ounces or
18 more of cannabis or ~~ten~~ 10 grams or more of hashish or more than three mature
19 cannabis plants or six immature cannabis plants. For a first offense under this
20 subdivision (2), a person shall be provided the opportunity to participate in the
21 Court Diversion Program unless the prosecutor states on the record why a

1 referral to the Court Diversion Program would not serve the ends of justice. A
2 person convicted of a first offense under this subdivision (2) shall be
3 imprisoned not more than six months or fined not more than \$500.00, or both.

4 (B) A person convicted of a second or subsequent offense of
5 violating subdivision (A) of this subdivision (2) shall be imprisoned not more
6 than two years or fined not more than \$2,000.00, or both.

7 (C) Upon an adjudication of guilt for a first or second offense under
8 this subdivision (2), the court may defer sentencing as provided in 13 V.S.A.
9 § 7041, except that the court may in its discretion defer sentence without the
10 filing of a presentence investigation report and except that sentence may be
11 imposed at any time within two years from and after the date of entry of
12 deferment. The court may, prior to sentencing, order that the defendant submit
13 to a drug assessment screening, which may be considered at sentencing in the
14 same manner as a presentence report.

15 (3) A person knowingly and unlawfully possessing eight ounces of
16 cannabis or 1.4 ounces of hashish or knowingly and unlawfully cultivating
17 more than four mature cannabis plants or eight immature cannabis plants shall
18 be imprisoned not more than three years or fined not more than \$10,000.00, or
19 both.

20 (4) A person knowingly and unlawfully possessing more than one pound
21 of cannabis or more than 2.8 ounces of hashish or knowingly and unlawfully

1 cultivating more than six mature cannabis plants or 12 immature cannabis
2 plants shall be imprisoned not more than five years or fined not more than
3 \$10,000.00, or both.

4 (5) A person knowingly and unlawfully possessing more than 10 pounds
5 of cannabis or more than one pound of hashish or knowingly and unlawfully
6 cultivating more than 12 mature cannabis plants or 24 immature cannabis
7 plants shall be imprisoned not more than 15 years or fined not more than
8 \$500,000.00, or both.

9 (6) If a court fails to provide the defendant with notice of collateral
10 consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later
11 at any time shows that the plea and conviction for a violation of this subsection
12 may have or has had a negative consequence, the court, upon the defendant's
13 motion, shall vacate the judgment and permit the defendant to withdraw the
14 plea or admission and enter a plea of not guilty. Failure of the court to advise
15 the defendant of a particular collateral consequence shall not support a motion
16 to vacate.

17 (7) The amounts of cannabis in this subsection shall not include
18 cannabis cultivated, harvested, and stored in accordance with section 4230e of
19 this title.

1 (b) Selling ~~or dispensing~~.

2 (1) A person knowingly and unlawfully selling cannabis or hashish shall
3 be imprisoned not more than two years or fined not more than \$10,000.00, or
4 both.

5 (2) A person knowingly and unlawfully selling ~~or dispensing~~ more than
6 one ounce of cannabis or five grams or more of hashish shall be imprisoned
7 not more than five years or fined not more than \$100,000.00, or both.

8 (3) A person knowingly and unlawfully selling ~~or dispensing~~ one pound
9 or more of cannabis or 2.8 ounces or more of hashish shall be imprisoned not
10 more than 15 years or fined not more than \$500,000.00, or both.

11 (4) ~~A person 21 years of age or older may dispense one ounce or less of~~
12 ~~cannabis or five grams or less of hashish to another person who is 21 years of~~
13 ~~age or older, provided that the dispensing is not advertised or promoted to the~~
14 ~~public.~~ [Repealed.]

15 (c) Trafficking. A person knowingly and unlawfully possessing 50 pounds
16 or more of cannabis or five pounds or more of hashish with the intent to sell ~~or~~
17 ~~dispense~~ the cannabis or hashish shall be imprisoned not more than 30 years or
18 fined not more than \$1,000,000.00, or both. There shall be a permissive
19 inference that a person who possesses 50 pounds or more of cannabis or five
20 pounds or more of hashish intends to sell ~~or dispense~~ the cannabis or hashish.

1 (d) Cannabis-infused products. Only the portion of a cannabis-infused
2 product that is attributable to cannabis shall count toward the possession limits
3 of this section. The weight of cannabis that is attributable to cannabis-infused
4 products shall be determined according to methods set forth in rule by the
5 Cannabis Control Board.

6 Sec. 3. 18 V.S.A. § 4230f is amended to read:

7 § 4230f. ~~DISPENSING CANNABIS TO A PERSON UNDER 21 YEARS OF~~
8 ~~AGE; CRIMINAL OFFENSE~~

9 ~~(a) No person shall:~~

10 ~~(1) dispense cannabis to a person under 21 years of age; or~~

11 ~~(2) knowingly enable the consumption of cannabis by a person under 21~~
12 ~~years of age.~~

13 ~~(b) As used in this section, “enable the consumption of cannabis” means~~
14 ~~creating a direct and immediate opportunity for a person to consume cannabis.~~

15 ~~(c) Except as provided in subsection (d) of this section, a person who~~
16 ~~violates subsection (a) of this section shall be imprisoned not more than two~~
17 ~~years or fined not more than \$2,000.00, or both.~~

18 ~~(d) A person who violates subsection (a) of this section, where the person~~
19 ~~under 21 years of age while operating a motor vehicle on a public highway~~
20 ~~causes death or serious bodily injury to himself or herself or to another person~~

1 ~~as a result of the violation, shall be imprisoned not more than five years or~~
2 ~~fined not more than \$10,000.00, or both.~~

3 ~~(e)(1) Subsections (a) (d) of this section shall not apply to a person under~~
4 ~~21 years of age who dispenses cannabis to a person under 21 years of age or~~
5 ~~who knowingly enables the consumption of cannabis by a person under 21~~
6 ~~years of age.~~

7 ~~(2) A person who is 18, 19, or 20 years of age who knowingly dispenses~~
8 ~~cannabis to a person who is 18, 19, or 20 years of age commits a civil violation~~
9 ~~and shall be referred to the Court Diversion Program for the purpose of~~
10 ~~enrollment in the Youth Substance Awareness Safety Program in accordance~~
11 ~~with the provisions of section 4230b of this title and shall be subject to the~~
12 ~~penalties in that section for failure to complete the program successfully.~~

13 ~~(3) A person 18, 19, or 20 years of age who knowingly dispenses to a~~
14 ~~person under 18 years of age who is at least three years that person's junior~~
15 ~~shall be sentenced to a term of imprisonment of not more than five years in~~
16 ~~accordance with section 4237 of this title.~~

17 ~~(4) A person who is 19 years of age who knowingly dispenses to a~~
18 ~~person 17 years of age or a person who is 18 years of age who knowingly~~
19 ~~dispenses cannabis to a person who is 16 or 17 years of age commits a~~
20 ~~misdemeanor crime and shall be fined not more than \$500.00.~~

1 ~~(5) A person who is under 18 years of age who knowingly dispenses~~
2 ~~cannabis to another person who is under 18 years of age commits a delinquent~~
3 ~~act and shall be subject to 33 V.S.A. chapter 52.~~

4 ~~(f) This section shall not apply to a dispensary that lawfully provides~~
5 ~~cannabis to a registered patient or caregiver or to a registered caregiver who~~
6 ~~provides cannabis to a registered patient pursuant to chapter 86 of this title.~~

7 ~~(g) The provisions of this section do not limit or restrict the prosecution for~~
8 ~~other offenses arising out of the same conduct, nor shall they limit or restrict~~
9 ~~defenses under common law. [Repealed.]~~

10 Sec. 4. 18 V.S.A. § 4231 is amended to read:

11 § 4231. COCAINE

12 (a) Possession.

13 (1) A person knowingly and unlawfully possessing cocaine shall be
14 imprisoned not more than ~~one year~~ six months or fined not more than
15 ~~\$2,000.00~~ \$500.00, or both.

16 (2) A person knowingly and unlawfully possessing cocaine in an
17 amount consisting of 2.5 grams or more of one or more preparations,
18 compounds, mixtures, or substances containing cocaine shall be imprisoned
19 not more than ~~five~~ two years or fined not more than ~~\$100,000.00~~ \$5,000.00, or
20 both.

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

5 (4) [Repealed.]

6 (b) Selling ~~or dispensing~~.

7 (1) ~~A person knowingly and unlawfully dispensing cocaine shall be~~
8 ~~imprisoned not more than three years or fined not more than \$75,000.00, or~~
9 ~~both.~~ A person knowingly and unlawfully selling cocaine shall be imprisoned
10 not more than five years or fined not more than \$100,000.00, or both.

11 (2) A person knowingly and unlawfully selling ~~or dispensing~~ cocaine in
12 an amount consisting of 2.5 grams or more of one or more preparations,
13 compounds, mixtures, or substances containing cocaine shall be imprisoned
14 not more than 10 years or fined not more than \$250,000.00, or both.

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

19 (c) Trafficking.

20 (1) A person knowingly and unlawfully possessing cocaine in an
21 amount consisting of 150 grams or more of one or more preparations,

1 compounds, mixtures, or substances containing cocaine with the intent to sell
2 ~~or dispense~~ the cocaine shall be imprisoned not more than 30 years or fined not
3 more than \$1,000,000.00, or both. There shall be a permissive inference that a
4 person who possesses cocaine in an amount consisting of 150 grams or more of
5 one or more preparations, compounds, mixtures, or substances containing
6 cocaine intends to sell ~~or dispense~~ the cocaine. The amount of possessed
7 cocaine under this subdivision to sustain a charge of conspiracy under 13
8 V.S.A. § 1404 shall be not less than 400 grams in the aggregate.

9 (2) [Repealed.]

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

11 § 4232. LSD

12 (a) Possession.

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

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

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

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

11 (b) Selling or dispensing.

12 (1) ~~A person knowingly and unlawfully dispensing lysergic acid~~
13 ~~diethylamide shall be imprisoned not more than three years or fined not more~~
14 ~~than \$25,000.00, or both.~~ A person knowingly and unlawfully selling lysergic
15 acid diethylamide shall be imprisoned not more than five years or fined not
16 more than \$25,000.00, or both.

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

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

6 Sec. 6. 18 V.S.A. § 4233 is amended to read:

7 § 4233. HEROIN

8 (a) Possession.

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

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

17 (3) A person knowingly and unlawfully possessing heroin in an amount
18 consisting of ~~one gram~~ 2.5 grams or more of one or more preparations,
19 compounds, mixtures, or substances containing heroin shall be imprisoned not
20 more than ~~10~~ five years or fined not more than \$250,000.00, or both.

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

5 (b) Selling ~~or dispensing~~.

6 (1) ~~A person knowingly and unlawfully dispensing heroin shall be~~
7 ~~imprisoned not more than three years or fined not more than \$75,000.00, or~~
8 ~~both.~~ A person knowingly and unlawfully selling heroin shall be imprisoned
9 not more than five years or fined not more than \$100,000.00, or both.

10 (2) A person knowingly and unlawfully selling ~~or dispensing~~ heroin in
11 an amount consisting of 200 milligrams or more of one or more preparations,
12 compounds, mixtures, or substances containing heroin shall be imprisoned not
13 more than 10 years or fined not more than \$250,000.00, or both.

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

18 (c) Trafficking. A person knowingly and unlawfully possessing heroin in
19 an amount consisting of ~~3.5~~ seven grams or more of one or more preparations,
20 compounds, mixtures, or substances containing heroin with the intent to sell ~~or~~
21 ~~dispense~~ the heroin shall be imprisoned not more than 30 years or fined not

1 more than \$1,000,000.00, or both. There shall be a permissive inference that a
2 person who possesses heroin in an amount of 3.5 grams or more of one or
3 more preparations, compounds, mixtures, or substances containing heroin
4 intends to sell ~~or dispense~~ the heroin. The amount of possessed heroin under
5 this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall
6 be ~~no~~ not less than 10 grams in the aggregate.

7 (d) Transportation into the State. In addition to any other penalties
8 provided by law, a person knowingly and unlawfully transporting one gram or
9 more of heroin into Vermont with the intent to sell ~~or dispense~~ the heroin shall
10 be imprisoned not more than 10 years or fined not more than \$100,000.00, or
11 both.

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

13 § 4233a. FENTANYL

14 (a) Selling ~~or dispensing~~.

15 (1) ~~A person knowingly and unlawfully dispensing fentanyl 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 fentanyl shall be imprisoned
18 not more than five years or fined not more than \$100,000.00, or both.

19 (2) A person knowingly and unlawfully selling ~~or dispensing~~ fentanyl in
20 an amount consisting of four milligrams or more of one or more preparations,

1 compounds, mixtures, or substances containing fentanyl 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~~ fentanyl in
4 an amount consisting of 20 milligrams or more of one or more preparations,
5 compounds, mixtures, or substances containing fentanyl shall be imprisoned
6 not more than 20 years or fined not more than \$1,000,000.00, or both.

7 (4) In lieu of a charge under this subsection, but in addition to any other
8 penalties provided by law, a person knowingly and unlawfully selling ~~or~~
9 ~~dispensing~~ any regulated drug containing a detectable amount of fentanyl shall
10 be imprisoned not more than five years or fined not more than \$250,000.00, or
11 both.

12 (b) Trafficking. A person knowingly and unlawfully possessing fentanyl in
13 an amount consisting of 70 milligrams or more of one or more preparations,
14 compounds, mixtures, or substances containing fentanyl with the intent to sell
15 ~~or dispense~~ the fentanyl shall be imprisoned not more than 30 years or fined
16 not more than \$1,000,000.00, or both. There shall be a permissive inference
17 that a person who possesses fentanyl in an amount of 70 milligrams or more of
18 one or more preparations, compounds, mixtures, or substances containing
19 fentanyl intends to sell ~~or dispense~~ the fentanyl. The amount of possessed
20 fentanyl under this subsection to sustain a charge of conspiracy under 13
21 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

1 (c) Transportation into the State. In addition to any other penalties
2 provided by law, a person knowingly and unlawfully transporting more than 20
3 milligrams of fentanyl into Vermont with the intent to sell ~~or dispense~~ the
4 fentanyl shall be imprisoned not more than 10 years or fined not more than
5 \$100,000.00, or both.

6 (d) Definition. As used in this section, “knowingly” means:

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

10 (2) the defendant:

11 (A) was aware that there is a high probability that one or more
12 preparations, compounds, mixtures, or substances contained the regulated drug
13 identified in the applicable section of this chapter; and

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

17 Sec. 8. 18 V.S.A. § 4233b is amended to read:

18 § 4233b. XYLAZINE

19 (a) No person shall ~~dispense or~~ sell xylazine except as provided in
20 subsection (b) of this section.

1 (b) The following are permitted activities related to xylazine:

2 (1) dispensing or prescribing for, or administration to, a nonhuman
3 species a drug containing xylazine approved by the Secretary of Health and
4 Human Services pursuant to section 512 of the Federal Food, Drug, and
5 Cosmetic Act as provided in 21 U.S.C. § 360b;

6 (2) dispensing or prescribing for, or administration to, a nonhuman
7 species permissible pursuant to section 512(a)(4) of the Federal Food, Drug,
8 and Cosmetic Act as provided in 21 U.S.C. § 360b(a)(4);

9 (3) manufacturing, distribution, or use of xylazine as an active
10 pharmaceutical ingredient for manufacturing an animal drug approved under
11 section 512 of the Federal Food, Drug, and Cosmetic Act as provided in 21
12 U.S.C. § 360b or issued an investigation use exemption pursuant to section
13 512(j);

14 (4) manufacturing, distribution, or use of a xylazine bulk chemical for
15 pharmaceutical compounding by licensed pharmacists or veterinarians; and

16 (5) any other use approved or permissible under the Federal Food, Drug,
17 and Cosmetic Act.

18 (c) ~~A person knowingly and unlawfully dispensing xylazine 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 xylazine shall be imprisoned
21 not more than five years or fined not more than \$100,000.00, or both.

1 (d) As used in this section, “knowingly” means:

2 (1) the defendant had actual knowledge that one or more preparations,
3 compounds, mixtures, or substances contained xylazine; or

4 (2) the defendant:

5 (A) was aware that there is a high probability that one or more
6 preparations, compounds, mixtures, or substances contained xylazine; and

7 (B) took deliberate actions to avoid learning that one or more
8 preparations, compounds, mixtures, or substances contained xylazine.

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

10 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

11 (a) Possession.

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

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

19 (2) A person knowingly and unlawfully possessing a depressant,
20 stimulant, or narcotic drug, other than heroin or cocaine, consisting of 100

1 times a benchmark unlawful dosage or its equivalent shall be imprisoned not
2 more than ~~five~~ two years or fined not more than ~~\$25,000.00~~ \$2,000.00, 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 shall be imprisoned not
6 more than 10 years or fined not more than \$100,000.00, or both.

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

11 (b) ~~Selling or dispensing.~~

12 (1) ~~A person knowingly and unlawfully dispensing a depressant,~~
13 ~~stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be~~
14 ~~imprisoned not more than three years or fined not more than \$75,000.00, or~~
15 ~~both.~~ A person knowingly and unlawfully selling a depressant, stimulant, or
16 narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not
17 more than ~~five~~ two years or fined not more than ~~\$25,000.00~~ \$5,000.00, or both.

18 (2) A person knowingly and unlawfully selling ~~or dispensing~~ a
19 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
20 consisting of 100 times a benchmark unlawful dosage or its equivalent shall be

1 imprisoned not more than 10 years or fined not more than \$100,000.00, or
2 both.

3 (3) A person knowingly and unlawfully selling ~~or dispensing~~ a
4 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
5 consisting of 1,000 times a benchmark unlawful dosage or its equivalent shall
6 be imprisoned not more than 20 years or fined not more than \$500,000.00, or
7 both.

8 (4) As used in this subsection, “knowingly” means:

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

12 (B) the defendant:

13 (i) was aware that there is a high probability that one or more
14 preparations, compounds, mixtures, or substances contained the regulated drug
15 identified in the applicable section of this chapter; and

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

19 (c) Possession of buprenorphine by a person under 21 years of age.

20 (1) Except as provided in subdivision (2) of this subsection, a person
21 under 21 years of age who knowingly and unlawfully possesses 224

1 milligrams or less of buprenorphine commits a civil violation and shall be
2 subject to the provisions of section 4230b of this title.

3 (2) A person under 16 years of age who knowingly and unlawfully
4 possesses 224 milligrams or less of buprenorphine commits a delinquent act
5 and shall be subject to the provisions of section 4230j of this title.

6 Sec. 10. 18 V.S.A. § 4234a is amended to read:

7 § 4234a. METHAMPHETAMINE

8 (a) Possession.

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

12 (2) A person knowingly and unlawfully possessing methamphetamine in
13 an amount consisting of 2.5 grams or more of one or more preparations,
14 compounds, mixtures, or substances containing methamphetamine shall be
15 imprisoned not more than ~~five~~ two years or fined not more than ~~\$100,000.00~~
16 \$5,000.00, or both.

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

1 (b) ~~Selling and dispensing.~~

2 (1) ~~A person knowingly and unlawfully dispensing methamphetamine~~
3 ~~shall be imprisoned not more than three years or fined not more than~~
4 ~~\$75,000.00, or both.~~ A person knowingly and unlawfully selling
5 methamphetamine shall be imprisoned not more than five years or fined not
6 more than \$100,000.00, or both.

7 (2) A person knowingly and unlawfully selling ~~or dispensing~~
8 methamphetamine in an amount consisting of 2.5 grams or more of one or
9 more preparations, compounds, mixtures, or substances containing
10 methamphetamine shall be imprisoned not more than 10 years or fined not
11 more than \$250,000.00, or both.

12 (3) A person knowingly and unlawfully selling ~~or dispensing~~
13 methamphetamine in an amount consisting of 25 grams or more of one or more
14 preparations, compounds, mixtures, or substances containing
15 methamphetamine shall be imprisoned not more than 20 years or fined not
16 more than \$1,000,000.00, or both.

17 (c) Trafficking. A person knowingly and unlawfully possessing
18 methamphetamine in an amount consisting of 300 grams or more of one or
19 more preparations, compounds, mixtures, or substances containing
20 methamphetamine with the intent to sell ~~or dispense~~ the methamphetamine
21 shall be imprisoned not more than 30 years or fined not more than

1 \$1,000,000.00, or both. There shall be a permissive inference that a person
2 who possesses methamphetamine in an amount consisting of 300 grams or
3 more of one or more preparations, compounds, mixtures, or substances
4 containing methamphetamine intends to sell ~~or dispense~~ the methamphetamine.
5 The amount of possessed methamphetamine under this subsection to sustain a
6 charge of conspiracy under 13 V.S.A. § 1404 shall be ~~no~~ not less than 800
7 grams in the aggregate.

8 Sec. 11. 18 V.S.A. § 4234b is amended to read:

9 § 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

10 (a) Possession.

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

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

16 (A) if the offense involves possession of less than nine grams of
17 ephedrine base, pseudoephedrine base, or phenylpropanolamine base, be
18 imprisoned not more than ~~one year~~ six months or fined not more than
19 ~~\$2,000.00~~ \$500.00, or both; and

20 (B) if the offense involves possession of nine or more grams of
21 ephedrine base, pseudoephedrine base, or phenylpropanolamine base, be

1 imprisoned not more than ~~five~~ two years or fined not more than ~~\$100,000.00~~
2 \$5,000.00, or both.

3 (b) Sale.

4 (1) A drug product containing ephedrine base, pseudoephedrine base, or
5 phenylpropanolamine base shall not be distributed at retail to the general
6 public unless it is maintained in a locked display case or behind the counter out
7 of the public's reach.

8 (2)(A) A retail establishment shall not knowingly complete a sale to a
9 person if the drug product or combination of drug products purchased would
10 surpass a total of more than 3.6 grams within a 24-hour period or nine grams
11 within a 30-day period of ephedrine base, pseudoephedrine base, or
12 phenylpropanolamine base or their isomers.

13 (B) This subdivision (2) shall not apply to drug products dispensed
14 pursuant to a valid prescription.

15 (3) A person or business that violates this subdivision shall:

16 (A) for a first violation, be assessed a civil penalty of not more than
17 \$100.00; and

18 (B) for a second and subsequent violation, be assessed a civil penalty
19 of not more than \$500.00.

1 (c) Electronic registry system.

2 (1)(A) Retail establishments shall use an electronic registry system to
3 record the sale of products made pursuant to subsection (b) of this section. The
4 electronic registry system shall have the capacity to block a sale of
5 nonprescription drug products containing ephedrine base, pseudoephedrine
6 base, or phenylpropanolamine base that would result in a purchaser exceeding
7 the lawful daily or monthly amount. The system shall contain an override
8 function that may be used by an agent of a retail establishment who is
9 dispensing the drug product and who has a reasonable fear of imminent bodily
10 harm to ~~his or her~~ the person or to another person if the transaction is not
11 completed. The system shall create a record of each use of the override
12 mechanism.

13 (B) The electronic registry system shall be available free of charge to
14 the State of Vermont, retail establishments, and local law enforcement
15 agencies.

16 (C) The electronic registry system shall operate in real time to enable
17 communication among in-state users and users of similar systems in
18 neighboring states.

19 (D) The State shall use the National Precursor Log Exchange
20 (NPLEx) online portal or its equivalent to host Vermont's electronic registry
21 system.

1 (2)(A) Prior to completing a sale under subsection (b) of this section, a
2 retail establishment shall require the person purchasing the drug product to
3 present a current, valid, government-issued identification document. The retail
4 establishment shall record in the electronic registry system:

- 5 (i) the name and address of the purchaser;
- 6 (ii) the name of the drug product and quantity of ephedrine,
7 pseudoephedrine, and phenylpropanolamine base sold in grams;
- 8 (iii) the date and time of purchase;
- 9 (iv) the form of identification presented, the issuing government
10 entity, and the corresponding identification number; and
- 11 (v) the name of the person selling or furnishing the drug product.

12 (B)(i) If the retail establishment experiences an electronic or
13 mechanical failure of the electronic registry system and is unable to comply
14 with the electronic recording requirement, the retail establishment shall
15 maintain a written log or an alternative electronic record-keeping mechanism
16 until the retail establishment is able to comply fully with this subsection (c).

17 (ii) If the region of the State where the retail establishment is
18 located does not have broadband Internet access, the retail establishment shall
19 maintain a written log or an alternative electronic record-keeping mechanism
20 until broadband Internet access becomes accessible in that region. At that time,
21 the retail establishment shall come into compliance with this subsection (c).

1 (C) A retail establishment shall maintain all records of drug product
2 purchases made pursuant to this subsection (c) for a minimum of two years.

3 (3) A retail establishment shall display a sign at the register provided by
4 NPLEx or its equivalent to notify purchasers of drug products containing
5 ephedrine, pseudoephedrine, or phenylpropanolamine base that:

6 (A) the purchase of the drug product or products shall result in the
7 purchaser's identity being listed on a national database; and

8 (B) the purchaser has the right to request the transaction number for
9 any purchase that was denied pursuant to this subsection (c).

10 (4) A person or retail establishment that violates this subsection shall:

11 (A) for a first violation, be assessed a civil penalty of not more than
12 \$100.00; and

13 (B) for a second or subsequent violation, be assessed a civil penalty
14 of not more than \$500.00.

15 (d) Applicability. This section shall not apply to a manufacturer that has
16 obtained an exemption from the Attorney General of the United States under
17 Section 711(d) of the federal Combat Methamphetamine Epidemic Act of
18 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. 12. 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 (c) Selling ~~or dispensing~~.

18 (1) ~~A person knowingly and unlawfully dispensing a hallucinogenic~~
19 ~~drug, other than lysergic acid diethylamide, shall be imprisoned not more than~~
20 ~~three years or fined not more than \$25,000.00, or both.~~ A person knowingly
21 and unlawfully selling a hallucinogenic drug, other than lysergic acid

1 diethylamide, shall be imprisoned not more than five years or fined not more
2 than \$25,000.00, or both.

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

7 (3) A person knowingly and unlawfully selling ~~or dispensing~~ 100 or
8 more doses of a hallucinogenic drug, other than lysergic acid diethylamide,
9 shall be imprisoned not more than 15 years or fined not more than
10 \$500,000.00, or both.

11 Sec. 13. 18 V.S.A. § 4235a is amended to read:

12 § 4235a. ECSTASY

13 (a) Possession.

14 (1) A person knowingly and unlawfully possessing Ecstasy shall be
15 imprisoned not more than ~~one year~~ six months or fined not more than
16 ~~\$2,000.00~~ \$500.00, or both.

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

1 (3) A person knowingly and unlawfully possessing Ecstasy in an
2 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 10 years or fined not more than \$100,000.00, or both.

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

9 (b) Selling ~~or dispensing~~.

10 (1) ~~A person knowingly and unlawfully dispensing Ecstasy shall be~~
11 ~~imprisoned not more than three years or fined not more than \$25,000.00, or~~
12 ~~both.~~ A person knowingly and unlawfully selling Ecstasy shall be imprisoned
13 not more than five years or fined not more than \$25,000.00, or both.

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

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

1 Sec. 14. 18 V.S.A. § 4237 is amended to read:

2 § 4237. SELLING OR DISPENSING TO MINORS; SELLING ON SCHOOL
3 GROUNDS

4 (a) Dispensing regulated drugs to minors. A person knowingly and
5 unlawfully dispensing any regulated drug to a ~~minor~~ person under 21 years of
6 age who is at least three years that person's junior shall be sentenced to a term
7 of imprisonment of not more than five years.

8 (b) Sale of regulated drugs. A person knowingly and unlawfully selling
9 any regulated drug to a minor shall, in addition to any other penalty, be
10 sentenced to a term of imprisonment of not more than 10 years.

11 (c) Selling on school grounds. No person shall knowingly and unlawfully:

12 (1) dispense or sell a regulated drug to any person on a school bus or on
13 real property owned by a public or private elementary, secondary, or
14 vocational school;

15 (2) sell a regulated drug to any person on real property abutting real
16 property owned by a public or private elementary, secondary, or vocational
17 school; or

18 (3) dispense a regulated drug to any person in public view on real
19 property abutting real property owned by a school.

20 (d) Abutting school property. The selling or dispensing of a regulated drug
21 to a person on property abutting school property is a violation under this

1 section only if it occurs within 500 feet of the school property. Property shall
2 be considered abutting school property if:

- 3 (1) it shares a boundary with school property; or
4 (2) it is adjacent to school property and is separated only by a river,
5 stream, or public highway.

6 (e) Penalty. A person who violates subsection (c) of this section shall, in
7 addition to any other penalty, be sentenced to a term of imprisonment of not
8 more than 10 years.

9 (f) Definitions. As used in this section:

- 10 (1) "Minor" means a person under ~~the age of~~ 18 years of age.
11 (2) "Owned by a school" means owned, leased, controlled, or
12 subcontracted by a school and used frequently by students for educational or
13 recreational activities.

14 Sec. 15. EFFECTIVE DATE

15 This act shall take effect on July 1, 2026.