

H.511

An act relating to eliminating penalties for possession of limited amounts of marijuana by adults 21 years of age or older

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

Sec. 1. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all penalties for possession of one ounce or less of marijuana and two mature and four immature marijuana plants for a person who is 21 years of age or older while retaining criminal penalties for possession, dispensing, and sale of larger amounts of marijuana.

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

\* \* \*

(15)(A) “Marijuana” means ~~any plant material of the genus cannabis or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562~~ all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Marijuana” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

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(43) “Immature marijuana plant” means a female marijuana plant that has not flowered and that does not have buds that may be observed by visual examination.

(44) “Mature marijuana plant” means a female marijuana plant that has flowered and that has buds that may be observed by visual examination.

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

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

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

to a drug assessment screening, which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than ~~three plants of~~ four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound ~~or more~~ of marijuana or more than 2.8 ounces ~~or more~~ of hashish or knowingly and unlawfully cultivating more than ~~10 plants of~~ six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds ~~or more~~ of marijuana or more than one pound ~~or more~~ of hashish or knowingly and unlawfully cultivating more than ~~25 plants of~~ 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's

motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

\* \* \*

Sec. 4. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE  
OR OLDER;~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

~~(1) not more than \$200.00 for a first offense;~~

~~(2) not more than \$300.00 for a second offense;~~

~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use

shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind~~ A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law.

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

- (i) not more than \$100.00 for a first offense;
- (ii) not more than \$200.00 for a second offense; and
- (iii) not more than \$500.00 for a third or subsequent offense.

~~(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies~~

~~concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2)(b)(1) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana possessed or consumed in violation of State law is contraband pursuant to section 4242 subsection 4242(d) of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense~~

(2) This section does not:

(A) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(B) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(C) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(D) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(E) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(F) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(e)~~(c)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (a) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is



unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation, which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use,  
consumption, possession, transfer, display, transportation, sale, or growing of  
marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 5. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS  
OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

\* \* \*

Sec. 6. REPEAL

18 V.S.A. § 4230d (marijuana possession by a person under 16 years of age; delinquency) is repealed.

Sec. 7. 18 V.S.A. § 4230e is added to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the written consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

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

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

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

Sec. 8. 18 V.S.A. § 4230f is added to read:

§ 4230f. DISPENSING MARIJUANA TO A PERSON UNDER  
21 YEARS OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) dispense marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under  
21 years of age.

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

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

(d) A person who violates subsection (a) of this section, where the person  
under 21 years of age while operating a motor vehicle on a public highway  
causes death or serious bodily injury to himself or herself or to another person  
as a result of the violation, shall be imprisoned not more than five years or  
fined not more than \$10,000.00, or both.

(e)(1) Subsections (a)–(d) of this section shall not apply to a person under  
21 years of age who dispenses marijuana to a person under 21 years of age or

who knowingly enables the consumption of marijuana by a person under 21 years of age.

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

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

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

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

(f) This section shall not apply to a dispensary that lawfully provides marijuana to a registered patient or caregiver pursuant to chapter 86 of this title.

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

Sec. 9. 18 V.S.A. § 4230g is added to read:

§ 4230g. DISPENSING MARIJUANA TO A PERSON UNDER

21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by knowingly dispensing marijuana to a person under 21 years of age or enabling the consumption of marijuana by a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who

knowingly dispensed the marijuana or enabled the consumption of the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f) A person who knowingly dispenses marijuana to a person under 21 years of age or who enables consumption of marijuana by a person under 21 years of age may be held liable under this section if the person knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

Sec. 10. 18 V.S.A. § 4230h is added to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE

PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.



(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 11. 18 V.S.A. § 4230i is added to read:

§ 4230i. EXCEPTIONS

(a) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

(1) not more than \$200.00 for a first offense;

(2) not more than \$300.00 for a second offense;

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

(b) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses any of the following commits a

misdemeanor and is subject to imprisonment of not more than one year or a fine of not more than \$1,000.00, or both:

(1) more than one ounce, but not more than two ounces of marijuana;

(2) more than five grams, but not more than 10 grams of hashish; or

(3) not more than six mature marijuana plants and 12 immature

marijuana plants.

Sec. 12. 18 V.S.A. § 4476 is amended to read:

§ 4476. OFFENSES AND PENALTIES

~~(a) No person shall sell, possess with intent to sell, or manufacture with intent to sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a regulated drug in violation of chapter 84 of this title. Whoever violates any provision of this section shall be punished by imprisonment for not more than one year or by a fine of not more than \$1,000.00, or both.~~

~~(b) Any~~ A person who ~~violates subsection (a) of this section by selling~~ sells drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years or fined not more than \$2,000.00, or both.

~~(e)~~(b) The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title.

Sec. 13. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume an alcoholic ~~beverages~~ beverage or marijuana while operating a motor vehicle on a public highway. As used in this subsection, the prohibition on consumption of marijuana by the operator shall extend to the operator's consumption of secondhand marijuana smoke in the vehicle as a result of another person's consumption of marijuana. As used in this section, "alcoholic beverages" shall have the same meaning as "alcohol" as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains an alcoholic ~~beverages~~ beverage or marijuana in the passenger area of the motor vehicle.

(c) As used in this section:

(1) "Alcoholic beverage" shall have the same meaning as "alcohol" as defined in section 1200 of this title.

(2) "~~passenger~~ Passenger area" shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area

that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who ~~violates~~ possesses an open container which contains an alcoholic beverage in violation of subsection (b) of this section shall be assessed a civil penalty of not more than \$25.00. A person who possesses an open container which contains marijuana in violation of subsection (b) of this section shall be assessed a civil penalty of not more than \$200.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 14. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume an alcoholic beverage or marijuana ~~or possess any open container which contains alcoholic beverages~~ in the passenger area of any motor vehicle on a public highway. ~~As used in this~~

~~section, “alcoholic beverages” shall have the same meaning as “alcohol” as defined in section 1200 of this title.~~

(b) A passenger in a motor vehicle shall not possess any open container which contains an alcoholic beverage or marijuana in the passenger area of the motor vehicle.

(c) As used in this section:

(1) “Alcoholic beverage” shall have the same meaning as “alcohol” as defined in section 1200 of this title.

(2) ~~“passenger~~ Passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

~~(c)~~(d) A person, other than the operator, may possess an open container which contains an alcoholic ~~beverages~~ beverage in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

~~(d)(e)~~ A person who ~~violates~~ consumes an alcoholic beverage or possesses an open container which contains an alcoholic beverage in violation of this section shall be ~~fined~~ assessed a civil penalty of not more than \$25.00.

A person who consumes marijuana or possesses an open container which contains marijuana in violation of this section shall be assessed a civil penalty of not more than \$200.00.

Sec. 15. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING USING TOBACCO OR MARIJUANA IN A MOTOR  
VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product or use a tobacco substitute as defined in 7 V.S.A. § 1001 in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person shall not use marijuana as defined in 18 V.S.A. § 4201 in a motor vehicle that is occupied by a child under 18 years of age.

(c)(1) A person who violates subsection (a) of this section shall be subject to a ~~fine~~ civil penalty of not more than \$100.00. ~~No~~ and no points shall be assessed ~~for a violation of this section.~~

(2) A person who violates subsection (b) of this section commits a misdemeanor crime and shall be subject to the following penalties:

(A) a fine of not more than \$500.00 for a first offense;

(B) a fine of not more than \$750.00 for a second offense;

(C) a fine of not more than \$1,000.00 for a third or subsequent offense.

(3) A person who violates subsection (b) of this section shall be assessed two points.

Sec. 16. 33 V.S.A. § 3504 is amended to read:

§ 3504. MARIJUANA AND TOBACCO USE PROHIBITED AT CHILD CARE FACILITIES

(a) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201 or to cultivate marijuana, or use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time.

(b) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201, tobacco products, or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both ~~indoor~~ indoors and in any outdoor area designated for child care, of a licensed or registered family child care home while children are present and in care. If use of marijuana or smoking of tobacco products or tobacco substitutes occurs on the premises during other times, the family child care home shall notify prospective families prior to enrolling a child in the family child care home that their child will be exposed to an environment in

which marijuana, tobacco products, or tobacco substitutes, ~~or both~~, are used.  
Cultivation of marijuana in a licensed or registered family child care home is not permitted.

(c) A person who knowingly uses or cultivates marijuana in violation of this section commits a misdemeanor crime and shall be subject to the following penalties:

(1) a fine of not more than \$500.00 for a first offense;

(2) a fine of not more than \$750.00 for a second offense;

(3) a fine of not more than \$1,000.00 for a third or subsequent offense.

#### Sec. 17. DISPARITIES IN ENFORCEMENT OF DRUG LAWS

Findings. The General Assembly finds that:

(1) A 2013 report by the American Civil Liberties Union, The War on Marijuana in Black and White, identified Vermont as 15th in the country and first in New England when comparing discrepancies in citation and arrest rates for marijuana possession. The report stated that African-Americans in Vermont were 4.36 times more likely to be cited or arrested for marijuana possession than whites, higher than the national average of African-Americans being 3.73 more likely than whites to be cited or arrested for marijuana possession. Although Vermont later decriminalized possession of small amounts of marijuana, a 2016 report by Human Rights Watch and the ACLU, Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United



States, found that Vermont had the third-highest racial disparity in drug possession arrest rates in the country despite nearly identical use rates.

(2) In the report, Driving While Black or Brown in Vermont, University of Vermont researchers, examining 2015 data from 29 police agencies covering 78 percent of Vermont's population, found significant disparities in how often African-Americans and Hispanics are stopped, searched, and arrested, as compared to whites and Asians. According to the report, African-American drivers are four times more likely than white drivers to be searched by Vermont police, even though they are less likely to be found with illegal items.

(3) As part of efforts to eliminate implicit bias in Vermont's criminal justice system, policymakers must reexamine the State's drug laws, beginning with its policy on marijuana.

(4) According to a 2014 study conducted by the RAND Corporation, an estimated 80,000 Vermont residents regularly consume marijuana. Except for patients on the Vermont Medical Marijuana Registry, these Vermonters obtain marijuana through a thriving illegal market.

(5) In November 2016, voters in Massachusetts and Maine approved possession and cultivation of marijuana for personal use by adults 21 years of age or older. In July 2018, both states will begin to allow retail sales of marijuana and marijuana-infused products through licensed stores. Canada is

expected to act favorably on legislation legalizing marijuana possession and cultivation for adults 18 years of age or older and federal administration officials have cited the summer of 2018 as the date at which licensed retail stores will begin selling marijuana and marijuana-infused products to the public.

(6) By adopting a comprehensive regulatory structure for legalizing and licensing the marijuana market, Vermont can revise drug laws that have a disparate impact on racial minorities, help prevent access to marijuana by youths, better control the safety and quality of marijuana being consumed by Vermonters, substantially reduce the illegal marijuana market, and use revenues to support substance use prevention and education and enforcement of impaired driving laws. The Governor's Marijuana Advisory Commission, as provided in Executive Order No. 15-17, has been directed to report on such a system on or before December 15, 2018.

#### Sec. 18. EFFECTIVE DATES

This section and Sec. 17 shall take effect on passage and the remaining sections shall take effect on July 1, 2018.

H.511

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

Sec. 1. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

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Sec. 2. 18 V.S.A. § 4201 is amended to read:

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(15)(A) “Marijuana” means ~~any plant material of the genus cannabis or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562~~ all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Marijuana” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

\* \* \*

(43) “Immature marijuana plant” means a female marijuana plant that has not flowered and that does not have buds that may be observed by visual examination.

(44) “Mature marijuana plant” means a female marijuana plant that has flowered and that has buds that may be observed by visual examination.

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

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

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

to a drug assessment screening, which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than ~~three plants of~~ four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound ~~or more~~ of marijuana or more than 2.8 ounces ~~or more~~ of hashish or knowingly and unlawfully cultivating more than ~~10 plants of~~ six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds ~~or more~~ of marijuana or more than one pound ~~or more~~ of hashish or knowingly and unlawfully cultivating more than ~~25 plants of~~ 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's

motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

\* \* \*

Sec. 4. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE  
OR OLDER; ~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

~~(1) not more than \$200.00 for a first offense;~~

~~(2) not more than \$300.00 for a second offense;~~

~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use

shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind~~ A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law.

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

- (i) not more than \$100.00 for a first offense;
- (ii) not more than \$200.00 for a second offense; and
- (iii) not more than \$500.00 for a third or subsequent offense.

~~(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies~~



~~concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2)(b)(1) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana possessed or consumed in violation of State law is contraband pursuant to ~~section 4242~~ subsection 4242(d) of this title and subject to seizure and forfeiture ~~unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense~~

(2) This section does not:

(A) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(B) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(C) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(D) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(E) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(F) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(e)~~(c)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (a) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is

unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation, which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use,  
consumption, possession, transfer, display, transportation, sale, or growing of  
marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 5. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS  
OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

\* \* \*

Sec. 6. REPEAL

18 V.S.A. § 4230d (marijuana possession by a person under 16 years of age; delinquency) is repealed.

Sec. 7. 18 V.S.A. § 4230e is added to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF

AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the written consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

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

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

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

Sec. 8. 18 V.S.A. § 4230f is added to read:

§ 4230f. DISPENSING MARIJUANA TO A PERSON UNDER  
21 YEARS OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) dispense marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under  
21 years of age.

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

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

(d) A person who violates subsection (a) of this section, where the person  
under 21 years of age while operating a motor vehicle on a public highway  
causes death or serious bodily injury to himself or herself or to another person  
as a result of the violation, shall be imprisoned not more than five years or  
fined not more than \$10,000.00, or both.

(e)(1) Subsections (a)–(d) of this section shall not apply to a person under  
21 years of age who dispenses marijuana to a person under 21 years of age or

who knowingly enables the consumption of marijuana by a person under 21 years of age.

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

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

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

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



(f) This section shall not apply to a dispensary that lawfully provides marijuana to a registered patient or caregiver pursuant to chapter 86 of this title.

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

Sec. 9. 18 V.S.A. § 4230g is added to read:

§ 4230g. DISPENSING MARIJUANA TO A PERSON UNDER

21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by knowingly dispensing marijuana to a person under 21 years of age or enabling the consumption of marijuana by a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who

knowingly dispensed the marijuana or enabled the consumption of the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f) A person who knowingly dispenses marijuana to a person under 21 years of age or who enables consumption of marijuana by a person under 21 years of age may be held liable under this section if the person knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

Sec. 10. 18 V.S.A. § 4230h is added to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE

PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 11. 18 V.S.A. § 4230i is added to read:

§ 4230i. EXCEPTIONS

(a) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

(1) not more than \$200.00 for a first offense;

(2) not more than \$300.00 for a second offense;

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

(b) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses any of the following commits a

misdemeanor and is subject to imprisonment of not more than one year or a fine of not more than \$1,000.00, or both:

(1) more than one ounce, but not more than two ounces of marijuana;

(2) more than five grams, but not more than 10 grams of hashish; or

(3) not more than six mature marijuana plants and 12 immature

marijuana plants.

Sec. 12. 18 V.S.A. § 4476 is amended to read:

§ 4476. OFFENSES AND PENALTIES

~~(a) No person shall sell, possess with intent to sell, or manufacture with intent to sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a regulated drug in violation of chapter 84 of this title. Whoever violates any provision of this section shall be punished by imprisonment for not more than one year or by a fine of not more than \$1,000.00, or both.~~

~~(b) Any~~ A person who ~~violates subsection (a) of this section by selling~~ sells drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years or fined not more than \$2,000.00, or both.

~~(e)~~(b) The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title.

Sec. 13. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume an alcoholic beverage or ~~an alcoholic beverages~~ marijuana while operating a motor vehicle on a public highway. As used in this subsection, the prohibition on consumption of marijuana by the operator shall extend to the operator's consumption of secondhand marijuana smoke in the vehicle as a result of another person's consumption of marijuana. As used in this section, "alcoholic beverages" shall have the same meaning as "alcohol" as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains an alcoholic beverage or ~~an alcoholic beverages~~ marijuana in the passenger area of the motor vehicle.

(c) As used in this section:

(1) "Alcoholic beverage" shall have the same meaning as "alcohol" as defined in section 1200 of this title.

(2) "passenger Passenger area" shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area

that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who ~~violates~~ possesses an open container which contains an alcoholic beverage in violation of subsection (b) of this section shall be assessed a civil penalty of not more than \$25.00. A person who possesses an open container which contains marijuana in violation of subsection (b) of this section shall be assessed a civil penalty of not more than \$200.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 14. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume an alcoholic beverage or marijuana ~~or possess any open container which contains alcoholic beverages~~ in the passenger area of any motor vehicle on a public highway. ~~As used in this~~

~~section, “alcoholic beverages” shall have the same meaning as “alcohol” as defined in section 1200 of this title.~~

(b) A passenger in a motor vehicle shall not possess any open container which contains an alcoholic beverage or marijuana in the passenger area of the motor vehicle.

(c) As used in this section:

(1) “Alcoholic beverage” shall have the same meaning as “alcohol” as defined in section 1200 of this title.

(2) ~~“passenger~~ Passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

~~(c)~~(d) A person, other than the operator, may possess an open container which contains an alcoholic ~~beverages~~ beverage in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

~~(d)(e)~~ A person who ~~violates~~ consumes an alcoholic beverage or possesses an open container which contains an alcoholic beverage in violation of this section shall be ~~fined~~ assessed a civil penalty of not more than \$25.00.

A person who consumes marijuana or possesses an open container which contains marijuana in violation of this section shall be assessed a civil penalty of not more than \$200.00.

Sec. 15. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING USING TOBACCO OR MARIJUANA IN A MOTOR  
VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product or use a tobacco substitute as defined in 7 V.S.A. § 1001 in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person shall not use marijuana as defined in 18 V.S.A. § 4201 in a motor vehicle that is occupied by a child under 18 years of age.

(c)(1) A person who violates subsection (a) of this section shall be subject to a ~~fine~~ civil penalty of not more than \$100.00. ~~No~~ and no points shall be assessed ~~for a violation of this section.~~

(2) A person who violates subsection (b) of this section commits a misdemeanor crime and shall be subject to the following penalties:



(A) a fine of not more than \$500.00 for a first offense;

(B) a fine of not more than \$750.00 for a second offense;

(C) a fine of not more than \$1,000.00 for a third or subsequent offense.

(3) A person who violates subsection (b) of this section shall be assessed two points.

Sec. 16. 33 V.S.A. § 3504 is amended to read:

§ 3504. MARIJUANA AND TOBACCO USE PROHIBITED AT CHILD  
CARE FACILITIES

(a) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201 or to cultivate marijuana, or use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time.

(b) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201, tobacco products, or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both ~~indoor~~ indoors and in any outdoor area designated for child care, of a licensed or registered family child care home while children are present and in care. If use of marijuana or smoking of tobacco products or tobacco substitutes occurs on the premises during other times, the family child care home shall notify prospective families prior to enrolling a child in the family child care home that their child will be exposed to an environment in

which marijuana, tobacco products, or tobacco substitutes, ~~or both~~, are used.  
Cultivation of marijuana in a licensed or registered family child care home is not permitted.

(c) A person who knowingly uses or cultivates marijuana in violation of this section commits a misdemeanor crime and shall be subject to the following penalties:

(1) a fine of not more than \$500.00 for a first offense;

(2) a fine of not more than \$750.00 for a second offense;

(3) a fine of not more than \$1,000.00 for a third or subsequent offense.

#### Sec. 17. DISPARITIES IN ENFORCEMENT OF DRUG LAWS

Findings. The General Assembly finds that:

(1) A 2013 report by the American Civil Liberties Union, The War on Marijuana in Black and White, identified Vermont as 15th in the country and first in New England when comparing discrepancies in citation and arrest rates for marijuana possession. The report stated that African-Americans in Vermont were 4.36 times more likely to be cited or arrested for marijuana possession than whites, higher than the national average of African-Americans being 3.73 more likely than whites to be cited or arrested for marijuana possession. Although Vermont later decriminalized possession of small amounts of marijuana, a 2016 report by Human Rights Watch and the ACLU, Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United

States, found that Vermont had the third-highest racial disparity in drug possession arrest rates in the country despite nearly identical use rates.

(2) In the report, Driving While Black or Brown in Vermont, University of Vermont researchers, examining 2015 data from 29 police agencies covering 78 percent of Vermont's population, found significant disparities in how often African-Americans and Hispanics are stopped, searched, and arrested, as compared to whites and Asians. According to the report, African-American drivers are four times more likely than white drivers to be searched by Vermont police, even though they are less likely to be found with illegal items.

(3) As part of efforts to eliminate implicit bias in Vermont's criminal justice system, policymakers must reexamine the State's drug laws, beginning with its policy on marijuana.

(4) According to a 2014 study conducted by the RAND Corporation, an estimated 80,000 Vermont residents regularly consume marijuana. Except for patients on the Vermont Medical Marijuana Registry, these Vermonters obtain marijuana through a thriving illegal market.

(5) In November 2016, voters in Massachusetts and Maine approved possession and cultivation of marijuana for personal use by adults 21 years of age or older. In July 2018, both states will begin to allow retail sales of marijuana and marijuana-infused products through licensed stores. Canada is

expected to act favorably on legislation legalizing marijuana possession and cultivation for adults 18 years of age or older and federal administration officials have cited the summer of 2018 as the date at which licensed retail stores will begin selling marijuana and marijuana-infused products to the public.

(6) By adopting a comprehensive regulatory structure for legalizing and licensing the marijuana market, Vermont can revise drug laws that have a disparate impact on racial minorities, help prevent access to marijuana by youths, better control the safety and quality of marijuana being consumed by Vermonters, substantially reduce the illegal marijuana market, and use revenues to support substance use prevention and education and enforcement of impaired driving laws. The Governor's Marijuana Advisory Commission, as provided in Executive Order No. 15-17, has been directed to report on such a system on or before December 15, 2018.

#### Sec. 18. EFFECTIVE DATES

This section and Sec. 17 shall take effect on passage and the remaining sections shall take effect on July 1, 2018.

H.511

An act relating to eliminating penalties for possession of limited amounts of marijuana by adults 21 years of age or older

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

Sec. 1. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all penalties for possession of one ounce or less of marijuana and two mature and four immature marijuana plants for a person who is 21 years of age or older while retaining criminal penalties for possession, dispensing, and sale of larger amounts of marijuana.

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

\* \* \*

(15)(A) “Marijuana” means ~~any plant material of the genus cannabis or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562~~ all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Marijuana” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

\* \* \*

(43) “Immature marijuana plant” means a female marijuana plant that has not flowered and that does not have buds that may be observed by visual examination.

(44) “Mature marijuana plant” means a female marijuana plant that has flowered and that has buds that may be observed by visual examination.

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

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

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

to a drug assessment screening, which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than ~~three plants of~~ four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound ~~or more~~ of marijuana or more than 2.8 ounces ~~or more~~ of hashish or knowingly and unlawfully cultivating more than ~~10 plants of~~ six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds ~~or more~~ of marijuana or more than one pound ~~or more~~ of hashish or knowingly and unlawfully cultivating more than ~~25 plants of~~ 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's



motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

\* \* \*

Sec. 4. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE  
OR OLDER; ~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

~~(1) not more than \$200.00 for a first offense;~~

~~(2) not more than \$300.00 for a second offense;~~

~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use

shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind~~ A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law.

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

- (i) not more than \$100.00 for a first offense;
- (ii) not more than \$200.00 for a second offense; and
- (iii) not more than \$500.00 for a third or subsequent offense.

~~(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies~~

~~concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2)(b)(1) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana possessed or consumed in violation of State law is contraband pursuant to section 4242 subsection 4242(d) of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense~~

(2) This section does not:

(A) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(B) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(C) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(D) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(E) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(F) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(e)~~(c)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (a) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is

unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation, which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use,  
consumption, possession, transfer, display, transportation, sale, or growing of  
marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 5. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS  
OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

\* \* \*

Sec. 6. REPEAL

18 V.S.A. § 4230d (marijuana possession by a person under 16 years of age; delinquency) is repealed.

Sec. 7. 18 V.S.A. § 4230e is added to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF

AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the written consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

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

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

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



Sec. 8. 18 V.S.A. § 4230f is added to read:

§ 4230f. DISPENSING MARIJUANA TO A PERSON UNDER  
21 YEARS OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) dispense marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under  
21 years of age.

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

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

(d) A person who violates subsection (a) of this section, where the person  
under 21 years of age while operating a motor vehicle on a public highway  
causes death or serious bodily injury to himself or herself or to another person  
as a result of the violation, shall be imprisoned not more than five years or  
fined not more than \$10,000.00, or both.

(e)(1) Subsections (a)–(d) of this section shall not apply to a person under  
21 years of age who dispenses marijuana to a person under 21 years of age or

who knowingly enables the consumption of marijuana by a person under 21 years of age.

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

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

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

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

(f) This section shall not apply to a dispensary that lawfully provides marijuana to a registered patient or caregiver pursuant to chapter 86 of this title.

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

Sec. 9. 18 V.S.A. § 4230g is added to read:

§ 4230g. DISPENSING MARIJUANA TO A PERSON UNDER

21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by knowingly dispensing marijuana to a person under 21 years of age or enabling the consumption of marijuana by a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who

knowingly dispensed the marijuana or enabled the consumption of the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f) A person who knowingly dispenses marijuana to a person under 21 years of age or who enables consumption of marijuana by a person under 21 years of age may be held liable under this section if the person knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

Sec. 10. 18 V.S.A. § 4230h is added to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE

PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 11. 18 V.S.A. § 4230i is added to read:

§ 4230i. EXCEPTIONS

(a) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

(1) not more than \$200.00 for a first offense;

(2) not more than \$300.00 for a second offense;

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

(b) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses any of the following commits a

misdemeanor and is subject to imprisonment of not more than one year or a fine of not more than \$1,000.00, or both:

(1) more than one ounce, but not more than two ounces of marijuana;

(2) more than five grams, but not more than 10 grams of hashish; or

(3) not more than six mature marijuana plants and 12 immature

marijuana plants.

Sec. 12. 18 V.S.A. § 4476 is amended to read:

§ 4476. OFFENSES AND PENALTIES

~~(a) No person shall sell, possess with intent to sell, or manufacture with intent to sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a regulated drug in violation of chapter 84 of this title. Whoever violates any provision of this section shall be punished by imprisonment for not more than one year or by a fine of not more than \$1,000.00, or both.~~

~~(b) Any A person who violates subsection (a) of this section by selling sells~~  
drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years or fined not more than \$2,000.00, or both.

~~(e)~~(b) The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title.

Sec. 13. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume an alcoholic ~~beverages~~ beverage or marijuana while operating a motor vehicle on a public highway. As used in this subsection, the prohibition on consumption of marijuana by the operator shall extend to the operator's consumption of secondhand marijuana smoke in the vehicle as a result of another person's consumption of marijuana. As used in this section, "alcoholic beverages" shall have the same meaning as "alcohol" as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains an alcoholic ~~beverages~~ beverage or marijuana in the passenger area of the motor vehicle.

(c) As used in this section:

(1) "Alcoholic beverage" shall have the same meaning as "alcohol" as defined in section 1200 of this title.

(2) "~~passenger~~ Passenger area" shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area

that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who ~~violates~~ possesses an open container which contains an alcoholic beverage in violation of subsection (b) of this section shall be assessed a civil penalty of not more than \$25.00. A person who possesses an open container which contains marijuana in violation of subsection (b) of this section shall be assessed a civil penalty of not more than \$200.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 14. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume an alcoholic beverage or marijuana ~~or possess any open container which contains alcoholic beverages~~ in the passenger area of any motor vehicle on a public highway. ~~As used in this~~



~~section, “alcoholic beverages” shall have the same meaning as “alcohol” as defined in section 1200 of this title.~~

(b) A passenger in a motor vehicle shall not possess any open container which contains an alcoholic beverage or marijuana in the passenger area of the motor vehicle.

(c) As used in this section:

(1) “Alcoholic beverage” shall have the same meaning as “alcohol” as defined in section 1200 of this title.

(2) ~~“passenger~~ Passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

~~(c)~~(d) A person, other than the operator, may possess an open container which contains an alcoholic ~~beverages~~ beverage in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

~~(d)~~(e) A person who ~~violates~~ consumes an alcoholic beverage or possesses an open container which contains an alcoholic beverage in violation of this section shall be ~~fined~~ assessed a civil penalty of not more than \$25.00.

A person who consumes marijuana or possesses an open container which contains marijuana in violation of this section shall be assessed a civil penalty of not more than \$200.00.

Sec. 15. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING USING TOBACCO OR MARIJUANA IN A MOTOR  
VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product or use a tobacco substitute as defined in 7 V.S.A. § 1001 in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person shall not use marijuana as defined in 18 V.S.A. § 4201 in a motor vehicle that is occupied by a child under 18 years of age.

(c)(1) A person who violates subsection (a) of this section shall be subject to a ~~fine~~ civil penalty of not more than \$100.00. ~~No~~ and no points shall be assessed ~~for a violation of this section.~~

(2) A person who violates subsection (b) of this section commits a misdemeanor crime and shall be subject to the following penalties:

(A) a fine of not more than \$500.00 for a first offense;

(B) a fine of not more than \$750.00 for a second offense;

(C) a fine of not more than \$1,000.00 for a third or subsequent offense.

(3) A person who violates subsection (b) of this section shall be assessed two points.

Sec. 16. 33 V.S.A. § 3504 is amended to read:

§ 3504. MARIJUANA AND TOBACCO USE PROHIBITED AT CHILD  
CARE FACILITIES

(a) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201 or to cultivate marijuana, or use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time.

(b) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201, tobacco products, or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both ~~indoor~~ indoors and in any outdoor area designated for child care, of a licensed or registered family child care home while children are present and in care. If use of marijuana or smoking of tobacco products or tobacco substitutes occurs on the premises during other times, the family child care home shall notify prospective families prior to enrolling a child in the family child care home that their child will be exposed to an environment in

which marijuana, tobacco products, or tobacco substitutes, ~~or both~~, are used.  
Cultivation of marijuana in a licensed or registered family child care home is not permitted.

(c) A person who knowingly uses or cultivates marijuana in violation of this section commits a misdemeanor crime and shall be subject to the following penalties:

(1) a fine of not more than \$500.00 for a first offense;

(2) a fine of not more than \$750.00 for a second offense;

(3) a fine of not more than \$1,000.00 for a third or subsequent offense.

#### Sec. 17. DISPARITIES IN ENFORCEMENT OF DRUG LAWS

Findings. The General Assembly finds that:

(1) A 2013 report by the American Civil Liberties Union, The War on Marijuana in Black and White, identified Vermont as 15th in the country and first in New England when comparing discrepancies in citation and arrest rates for marijuana possession. The report stated that African-Americans in Vermont were 4.36 times more likely to be cited or arrested for marijuana possession than whites, higher than the national average of African-Americans being 3.73 more likely than whites to be cited or arrested for marijuana possession. Although Vermont later decriminalized possession of small amounts of marijuana, a 2016 report by Human Rights Watch and the ACLU, Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United

States, found that Vermont had the third-highest racial disparity in drug possession arrest rates in the country despite nearly identical use rates.

(2) In the report, Driving While Black or Brown in Vermont, University of Vermont researchers, examining 2015 data from 29 police agencies covering 78 percent of Vermont's population, found significant disparities in how often African-Americans and Hispanics are stopped, searched, and arrested, as compared to whites and Asians. According to the report, African-American drivers are four times more likely than white drivers to be searched by Vermont police, even though they are less likely to be found with illegal items.

(3) As part of efforts to eliminate implicit bias in Vermont's criminal justice system, policymakers must reexamine the State's drug laws, beginning with its policy on marijuana.

(4) According to a 2014 study conducted by the RAND Corporation, an estimated 80,000 Vermont residents regularly consume marijuana. Except for patients on the Vermont Medical Marijuana Registry, these Vermonters obtain marijuana through a thriving illegal market.

(5) In November 2016, voters in Massachusetts and Maine approved possession and cultivation of marijuana for personal use by adults 21 years of age or older. In July 2018, both states will begin to allow retail sales of marijuana and marijuana-infused products through licensed stores. Canada is

expected to act favorably on legislation legalizing marijuana possession and cultivation for adults 18 years of age or older and federal administration officials have cited the summer of 2018 as the date at which licensed retail stores will begin selling marijuana and marijuana-infused products to the public.

(6) By adopting a comprehensive regulatory structure for legalizing and licensing the marijuana market, Vermont can revise drug laws that have a disparate impact on racial minorities, help prevent access to marijuana by youths, better control the safety and quality of marijuana being consumed by Vermonters, substantially reduce the illegal marijuana market, and use revenues to support substance use prevention and education and enforcement of impaired driving laws. The Governor's Marijuana Advisory Commission, as provided in Executive Order No. 15-17, has been directed to report on such a system on or before December 15, 2018.

#### Sec. 18. EFFECTIVE DATES

This section and Sec. 17 shall take effect on passage and the remaining sections shall take effect on July 1, 2018.





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The Vermont Statutes Online have been updated to include the actions of the 2023 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 18 : Health

Chapter 084 : Possession and Control of Regulated Drugs

Subchapter 001 : Regulated Drugs

(Cite as: 18 V.S.A. § 4230)

§ 4230. Cannabis

(a) Possession and cultivation.

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

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

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

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

(2)(A) No person shall knowingly and unlawfully possess two ounces or more of cannabis or ten grams or more of hashish or more than three mature cannabis plants or six immature cannabis plants. For a first offense under this subdivision (2), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

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

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

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

(4) A person knowingly and unlawfully possessing more than one pound of cannabis or more than 2.8 ounces of hashish or knowingly and unlawfully cultivating more than six mature cannabis plants or 12 immature cannabis plants shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

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

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

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

(b) Selling or dispensing.

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

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

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

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

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

(d) Cannabis-infused products. Only the portion of a cannabis-infused product that is attributable to cannabis shall count toward the possession limits of this section. The weight of cannabis that is attributable to cannabis-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis). (Added 1989, No. 100, § 1; amended 2001, No. 52, § 3; 2003, No. 54, § 4; 2013, No. 75, §§ 22d, 22e, eff. July 2, 2013; 2013, No. 76, § 1; 2015, No. 133 (Adj. Sess.), § 7, eff. May 25, 2016; 2017, No. 74, § 27; 2017, No. 86 (Adj. Sess.), § 3; 2019, No. 164 (Adj. Sess.), § 31, eff. Oct. 7, 2020; 2019, No. 167 (Adj. Sess.), § 32, eff. Jan. 1, 2021; 2021, No. 20, § 72.)

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[Legislative Schedule](#)

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Title 18 : Health

Chapter 084 : Possession and Control of Regulated Drugs

Subchapter 001 : Regulated Drugs

(Cite as: 18 V.S.A. § 4201)

§ 4201. Definitions

As used in this chapter:

(1) "Professional board" means:

(A) in the case of a dentist, the State Board of Dental Examiners so designated under 26 V.S.A. chapter 12;

(B) in the case of a physician or surgeon, the State Board of Medical Practice so designated under 26 V.S.A. chapter 23;

(C) in the case of an osteopath, the State Board of Osteopathic Examination and Registration so designated under 26 V.S.A. chapter 33;

(D) in the case of a nurse, the Vermont State Board of Nursing so designated under 26 V.S.A. chapter 28;

(E) in the case of a pharmacist or pharmacy, the State Board of Pharmacy so designated under 26 V.S.A. chapter 36;

(F) in the case of a veterinarian, the State Veterinary Board so designated under 26 V.S.A. chapter 44; and

(G) in the case of a hospital, laboratory, or nursing home, the Commissioner of Health so designated under chapter 3 of this title.

(2) [Repealed.]

(3) "Board of Pharmacy" means the State Board of Pharmacy so designated under 26 V.S.A. chapter 36.

(4) "Certificate" means a certificate of approval issued to a hospital, laboratory, or nursing home under section 4207 of this title.

(5) "Dentist" means a person authorized by law to practice dentistry in this State and who has a license issued to the person under this chapter authorizing him or her to use regulated drugs in connection with his or her professional practice.

(6) "Depressant or stimulant drug" means:

(A) any drug that contains any quantity of barbituric acid or any of the salts of barbituric acid, or any derivative of barbituric acid, that is designated as habit-forming because of its effect on the central nervous system in the rules adopted by the Department of Health under section 4202 of this title;

(B) any drug, other than methamphetamine, that contains any quantity of amphetamine or any of its optical isomers, any salt or amphetamine or any salt of an optical isomer of amphetamine, that the Department of Health so designates by such rule as habit-forming because of its effect on the central nervous system;

(C) gamma hydroxybutyric acid, including its salts, isomers, or salts of isomers;

(D) gamma butyrolactone, including 4-butyrolactone and gamma hydroxybutyric acid lactone, including its salts, isomers, or salts of isomers, when packaged, marketed, manufactured, or intended for human consumption;

(E) ketamine, including its salts, isomers, or salts of isomers;

(F) flunitrazepam, including its salts, isomers, or salts of isomers; and

(G) any drug, other than methamphetamine, that contains any quantity of a substance that the Department of Health so designates by such rule as having a serious potential for abuse arising out of its effect on the central nervous system.

(7) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(8) "Exempt officials" includes officials of the United States, insular possessions, territories, the District of Columbia, state, and political subdivisions.

(9) "Federal drug laws" means the laws of the United States relating to one or more of those drugs that are defined in this chapter as regulated drugs.

(10) "Hallucinogenic drugs" means stramonium, mescaline or peyote, lysergic acid diethylamide, and psilocybin, and all synthetic equivalents of chemicals contained in resinous extractives of Cannabis sativa, or any salts or derivatives or compounds of any preparations or mixtures thereof, and every other substance that is designated as habit-forming or as having a serious potential for abuse arising out of its effect on the central nervous system or its hallucinogenic effect in the rules adopted by the Department of Health under section 4202 of this title.

(11) "Hospital" means an institution for the care and treatment of the sick and injured licensed as a hospital under chapter 43 of this title and a hospital conducted, maintained, and operated by the United States or the State of Vermont, approved under this chapter as proper to be entrusted with the custody and use of regulated drugs under the direction of a physician or dentist, confirmed by an official written order signed by a person authorized to prescribe such drugs.

(12) "Laboratory" means a laboratory approved under this chapter as proper to be entrusted with the custody and use of regulated drugs for scientific and medical purposes and for purposes of instruction.

(13) "License" means a license to practice their profession issued to one of those persons listed in subdivisions (1)(A) through (F) of this section by the person's respective professional board under the applicable laws of this State, or a license issued by the Department of Health under section 4206 of this title to a person not subject to the jurisdiction of any such professional board.

(14) "Manufacturer" means a person authorized by law to manufacture, bottle, or pack drugs in this State and who has a license issued to the person under this chapter to compound, mix, cultivate, produce, or prepare regulated drugs, but does not include a pharmacy that compounds such drugs to be sold or dispensed on prescriptions at retail.

(15)(A) "Cannabis" means all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) "Cannabis" does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

(16) "Narcotic," "narcotics," or "narcotic drugs" means opium, coca leaves, pethidine (isonipecaine, meperidine), and opiates or their compound, manufacture, salt, alkaloid, or derivative, and every substance neither chemically nor physically distinguishable from them, and preparations containing such drugs or their derivatives, by whatever trade name identified and whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, as the same are so designated in the rules adopted by the Department of Health under section 4202 of this title.

(17) "Nurse" means any person authorized by law to practice nursing in this State.

(18) "Nursing home" means a facility, other than a hospital, operated for the purpose of providing lodging, board, and nursing care to persons who are sick, have an infirmity or disability, or are convalescing, approved under this chapter as proper to be entrusted with the custody and use of regulated drugs prescribed for such individual patients under its care under the direction of a physician or dentist, confirmed by an official written order signed by a person authorized to prescribe such drugs. No nursing home shall be granted a certificate of approval for the possession and use of such drugs unless such nursing home has a registered nurse or a licensed practical nurse on duty or on call 24 hours daily who will have sole responsibility for those drugs. Nothing in this chapter shall be construed as conferring on any nursing home, convalescent home, or home for the aged any authority, right, or privilege beyond that granted to it by the law under which it is licensed or otherwise authorized to function.

(19) "Official written order" means an order written on a form prescribed for that purpose by the U.S. Commissioner of Narcotics and issued by the U.S. Commissioner of Internal Revenue, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the Commissioner of Health.

(20) "Person" includes an individual, partnership, corporation, association, trust, or other institution or entity.

(21) "Pharmacist" means any person authorized by law to practice pharmacy in this State; but nothing in this chapter shall be construed as conferring on a person any authority, right, or privilege that is not granted to him or her by the pharmacy laws of his or her state.

(22) "Pharmacy" means any place registered as such by the Board of Pharmacy in which drugs, prescriptions, or poisons are possessed for the purpose of compounding, dispensing, or retailing, or in which drugs, prescriptions, or poisons are compounded, dispensed, or retailed, or in which such drugs, prescriptions, or poisons are by advertising or otherwise offered for sale at retail and that has a license issued to it under this chapter authorizing the retail dealing of regulated drugs.

(23) "Physician" means a person authorized by law to practice medicine in this State and who has a license issued to the person under this chapter authorizing him or her to use regulated drugs in connection with his or her professional practice.

(24) "Practitioner" includes a physician, dentist, veterinarian, surgeon, or any other person who may be lawfully entitled under this chapter to distribute, dispense, prescribe, or administer regulated drugs to patients.

(25) "Prescribe" means an order for a patient made or given by a practitioner.

(26) "Prescription" means an order for a regulated drug made by a physician, physician assistant, advanced practice registered nurse, dentist, or veterinarian licensed under this chapter to prescribe such a drug that shall be in writing except as otherwise specified in this subdivision. Prescriptions for such drugs shall be made to the order of an individual patient, dated as of the day of issue and signed by the prescriber. The prescription shall bear the full name, address, and date of birth of the patient, or if the patient is an animal, the name and address of the owner of the animal and the species of the animal. Such prescription shall also bear the full name, address, and registry number of the prescriber and, unless electronically prescribed, shall be written with ink, indelible pencil, or typewriter; if typewritten, it shall be signed by the prescriber. A written or typewritten prescription for a controlled substance, as defined in 21 C.F.R. Part 1308, shall contain the quantity of the drug written both in numeric and word form. If a prescription is communicated orally, it shall be reduced promptly to writing by the pharmacist. Nothing in this subdivision is meant to authorize the oral communication of a prescription when a written prescription is otherwise required.

(27) "Registration" means the annual registration of licenses and certificates under this chapter.

(28) "Registry number" means the number assigned under rules adopted by the Department of Health to each person authorized under this chapter to use, prescribe, dispense, possess, or administer a regulated drug in connection with his or her professional practice.

(29) "Regulated drug" means:

(A) a narcotic drug;

(B) a depressant or stimulant drug, other than methamphetamine;

(C) a hallucinogenic drug;

(D) Ecstasy;

(E) cannabis; or

(F) methamphetamine.

(30) "Sale" means transfer for a consideration or barter or exchange or an offer or express or implied promise to transfer for a consideration or barter or exchange, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(31) "Veterinarian" means a person authorized by law to practice veterinary medicine in this State and who has a license issued to the person under this chapter authorizing him or her to use regulated drugs in connection with his or her professional practice.

(32) "Veterinary hospital" means an institution equipped with the technical facilities and professional and technical personnel necessary for diagnosis and treatment of animals suffering from sickness or injury and which hospital is further approved under this chapter as proper to be entrusted with the custody and use of regulated drugs that may be used only by veterinarians in their professional practice at that hospital.

(33) "Wholesaler" means a person authorized by law, when so required, to sell at wholesale drugs in this State and further has a license issued to the person under this chapter to supply others than consumers with drugs or preparations containing a regulated drug that the person has not produced or prepared.

(34) "Deliver" means the actual, constructive, or attempted transfer or prescription of a regulated drug, whether or not there exists an agency relationship.

(35) "Cocaine" means coca leaves except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation that contains any quantity of any of the substances referred to in this subdivision.

(36) "Heroin" includes every substance not chemically or physically distinguishable from it and preparations containing heroin or its derivatives, by whatever name identified and whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, as designated by the Department of Health by rule.

(37) "Lysergic acid diethylamide" includes any salts or derivatives or compounds of any preparations or mixtures of lysergic acid diethylamide or any preparation, mixture, or compound containing any lysergic acid diethylamide.

(38) "Ecstasy" means 3,4-methylenedioxymethamphetamine, including its salts, isomers, or salts of isomers.

(39) "Methamphetamine" includes any quantity of the substance, its salt, isomers, salts of isomers, optical isomers, and salts of its optical isomers.

(40) "Crack cocaine" means the free-base form of cocaine.

(41) "Prescription drug" means any human drug required by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to Section 503(b) of the federal Food, Drug and Cosmetic Act.

(42) "Ultimate user" means a patient who uses a prescription drug.

(43) "Immature cannabis plant" means a female cannabis plant that has not flowered and that does not have buds that may be observed by visual examination.

(44) "Mature cannabis plant" means a female cannabis plant that has flowered and that has buds that may be observed by visual examination.

(45) "Approved drug-checking service provider" means a provider who complies with operating guidelines developed by the Department of Health pursuant to 4240a of this title.

(46) "Benchmark unlawful dosage" means the maximum recommended therapeutic dose, or maximum daily dose, as determined by the Department by rule.

(47) "Drug-checking" means the testing of a substance to determine its chemical composition or assist in determining whether the substance contains contaminants, toxic substances, or hazardous compounds. (Added 1967, No. 343 (Adj. Sess.), § 1, eff. March 23, 1968; amended 1975, No. 10, § 1, eff. 30 days from March 10, 1975; 1989, No. 100, §§ 10, 11; 2001, No. 52, § 2; 2003, No. 54, § 3; 2011, No. 27, § 1; 2013, No. 75, § 2; 2013, No. 84, § 2, eff. June 10, 2013; 2013, No. 96 (Adj. Sess.), § 97; 2013, No. 138 (Adj. Sess.), § 9; 2017, No. 86 (Adj. Sess.), § 2; 2017, No. 113 (Adj. Sess.), § 75; 2023, No. 22, § 11, eff. May 25, 2023; 2023, No. 53, § 101, eff. June 8, 2023.)

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Title 18 : Health

Chapter 089 : Drug Paraphernalia

(Cite as: 18 V.S.A. § 4476)

§ 4476. Offenses and penalties

(a) A person who sells drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years or fined not more than \$2,000.00, or both.

(b) The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title. (Added 1983, No. 186 (Adj. Sess.); amended 1999, No. 28, § 3; 2017, No. 86 (Adj. Sess.), § 12.)

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Title 18 : Health

Chapter 084 : Possession and Control of Regulated Drugs

Subchapter 001 : Regulated Drugs

(Cite as: 18 V.S.A. § 4230)

§ 4230. Cannabis

(a) Possession and cultivation.

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

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

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

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

(2)(A) No person shall knowingly and unlawfully possess two ounces or more of cannabis or ten grams or more of hashish or more than three mature cannabis plants or six immature cannabis plants. For a first offense under this subdivision (2), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

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

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

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

(4) A person knowingly and unlawfully possessing more than one pound of cannabis or more than 2.8 ounces of hashish or knowingly and unlawfully cultivating more than six mature cannabis plants or 12 immature cannabis plants shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

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

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

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

(b) Selling or dispensing.

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

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

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

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

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

(d) Cannabis-infused products. Only the portion of a cannabis-infused product that is attributable to cannabis shall count toward the possession limits of this section. The weight of cannabis that is attributable to cannabis-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis). (Added 1989, No. 100, § 1; amended 2001, No. 52, § 3; 2003, No. 54, § 4; 2013, No. 75, §§ 22d, 22e, eff. July 2, 2013; 2013, No. 76, § 1; 2015, No. 133 (Adj. Sess.), § 7, eff. May 25, 2016; 2017, No. 74, § 27; 2017, No. 86 (Adj. Sess.), § 3; 2019, No. 164 (Adj. Sess.), § 31, eff. Oct. 7, 2020; 2019, No. 167 (Adj. Sess.), § 32, eff. Jan. 1, 2021; 2021, No. 20, § 72.)

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[Lieutenant Governor](#)  
[Attorney General](#)  
[Auditor](#)  
[Secretary of State](#)  
[Treasurer](#)  
[Judiciary](#)  
[State Telephone Directory](#)

NOTEWORTHY

[Announcements](#)  
[Scheduled Committee Meetings](#)  
[Legislative Schedule](#)

SITE RESOURCES

[Sitemap](#) | [Disclaimers](#)  
[Questions & Comments](#) | [Career Opportunities](#)  
[Requests for Proposals](#) | [Accessibility](#)





1 H.270

2 Introduced by Representatives Birong of Vergennes and McCarthy of St.

3 Albans City

4 Referred to Committee on

5 Date:

6 Subject: Cannabis

7 Statement of purpose of bill as introduced: This bill proposes to repeal the  
8 Cannabis Control Board Advisory Committee; repeal the sunset of the  
9 Cannabis Control Board; permit a packaged cannabis product to have a  
10 maximum of 100 milligrams of THC; create a new cannabis propagation  
11 license; eliminate the requirement that a patient diagnosed with PTSD be  
12 engaged with psychotherapy or counseling with a licensed mental health care  
13 provider to qualify for the Registry; increase the number of cannabis plants a  
14 registered patient or the patient's caregiver may cultivate; eliminate the  
15 requirement that caregivers be fingerprinted and have a criminal history record  
16 check but require that the Board check the caregivers' names against the Child  
17 Protection Registry maintained by the Department for Children and Families  
18 and against the Vulnerable Adult Abuse, Neglect, and Exploitation Registry  
19 maintained by the Department of Disabilities, Aging, and Independent Living;  
20 allow a caregiver to serve two patients; eliminate the Registry annual renewal  
21 fee for patients who have a qualifying condition other than chronic pain and for

1 the caregivers who serve those patients; allow licensed cannabis establishment  
2 to do business with any other licensed cannabis establishment; clarify that  
3 licensed cannabis establishments are not required to obtain a license from the  
4 Department of Liquor and Lottery to sell tobacco paraphernalia; establish three  
5 new positions within the Cannabis Control Board for the Cannabis Quality  
6 Control Program and appropriate \$850,000.00 for those positions and  
7 equipment.

8 An act relating to miscellaneous amendments to the adult-use and medical  
9 cannabis programs

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

11 Sec. 1. 7 V.S.A. § 843 is amended to read:

12 § 843. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

13 \* \* \*

14 (h) ~~Advisory committee.~~

15 ~~(1) There is an advisory committee established within the Board that~~  
16 ~~shall be composed of members with expertise and knowledge relevant to the~~  
17 ~~Board's mission. The Board shall collaborate with the advisory committee on~~  
18 ~~recommendations to the General Assembly. The advisory committee shall be~~  
19 ~~composed of the following 14 members:~~

1           ~~(A) one member with an expertise in public health, appointed by the~~

2   ~~Governor;~~

3           ~~(B) the Secretary of Agriculture, Food and Markets or designee;~~

4           ~~(C) one member with an expertise in laboratory science or~~

5   ~~toxicology, appointed by the Governor;~~

6           ~~(D) one member with an expertise in systemic social justice and~~

7   ~~equity issues, appointed by the Speaker of the House;~~

8           ~~(E) one member with an expertise in women and minority owned~~

9   ~~business ownership, appointed by the Speaker of the House;~~

10          ~~(F) the Chair of the Substance Misuse Prevention Oversight and~~

11   ~~Advisory Council or designee;~~

12          ~~(G) one member with an expertise in the cannabis industry, appointed~~

13   ~~by the Senate Committee on Committees;~~

14          ~~(H) one member with an expertise in business management or~~

15   ~~regulatory compliance, appointed by the Treasurer;~~

16          ~~(I) one member with an expertise in municipal issues, appointed by~~

17   ~~the Senate Committee on Committees;~~

18          ~~(J) one member with an expertise in public safety, appointed by the~~

19   ~~Attorney General;~~

20          ~~(K) one member with an expertise in criminal justice reform,~~

21   ~~appointed by the Attorney General;~~

1           ~~(L) the Secretary of Natural Resources or designee;~~

2           ~~(M) the Chair of the Cannabis for Symptom Relief Oversight~~  
3     ~~Committee or designee; and~~

4           ~~(N) one member appointed by the Vermont Cannabis Trade~~  
5     ~~Association.~~

6           ~~(2) Initial appointments to the advisory committee as provided in~~  
7     ~~subdivision (1) of this subsection (h) shall be made on or before July 1, 2021.~~

8           ~~(3) The Board may establish subcommittees within the advisory~~  
9     ~~committee to accomplish its work.~~

10          ~~(4) Members of the advisory committee who are not otherwise~~  
11     ~~compensated by the member's employer for attendance at meetings shall be~~  
12     ~~entitled to per diem compensation and reimbursement of expenses as permitted~~  
13     ~~under 32 V.S.A. § 1010 for not more than six meetings annually. These~~  
14     ~~payments shall be made from the Cannabis Regulation Fund. [Repealed.]~~

15     Sec. 2. REPEAL; SUNSET OF CANNABIS CONTROL BOARD

16         2020 Acts and Resolves No. 164, Sec. 6e is repealed.

17     Sec. 3. 7 V.S.A. § 861(2) is amended to read:

18           (2) "Advertisement" means any written or verbal statement, illustration,  
19     or depiction that ~~is calculated to induce~~ would reasonably have the effect of  
20     inducing sales of cannabis or cannabis products, including any written, printed,  
21     graphic, or other material; billboard, sign, or other outdoor display; other

1       periodical literature, publication, or in a radio or television broadcast; the

2       Internet; or in any other media. The term does not include:

3               (A) any label affixed to any cannabis or cannabis product or any  
4       individual covering, carton, or other wrapper of that container that constitutes a  
5       part of the labeling under provisions of these standards;

6               (B) any editorial or other reading material, such as a news release, in  
7       any periodical or publication or newspaper for the publication of which no  
8       money or valuable consideration is paid or promised, directly or indirectly, by  
9       any cannabis establishment, and that is not written by or at the direction of the  
10      licensee;

11              (C) any educational, instructional, or otherwise noncommercial  
12      material that is not intended to induce sales and that does not propose an  
13      economic transaction, but that merely provides information to the public in an  
14      unbiased manner; or

15              (D) a sign attached to the premises of a cannabis establishment that  
16      merely identifies the location of the cannabis establishment.

17      Sec. 4. 7 V.S.A. § 881(a)(3) is amended to read:

18              (3) Rules concerning product manufacturers shall include:

19                      (A) requirements that a single package of a cannabis product shall  
20      not contain more than ~~50~~ 100 milligrams of THC, except in the case of:

1 (i) cannabis products that are not consumable, including topical  
2 preparations;

3 (ii) solid concentrates, oils, and tinctures; and

4 (iii) cannabis products sold to a dispensary pursuant to 18 V.S.A.  
5 chapter 86 and rules adopted pursuant to that chapter;

6 \* \* \*

7 Sec. 5. 7 V.S.A. § 904 is amended to read:

8 § 904. CULTIVATOR LICENSE

9 (a) A cultivator licensed under this chapter may:

10 (1) cultivate, process, package, label, transport, test, and sell cannabis to  
11 a licensed wholesaler, product manufacturer, retailer, integrated licensee, and  
12 dispensary ~~and may~~;

13 (2) purchase and sell cannabis seeds and immature cannabis plants to  
14 another licensed cultivator; and

15 (3) possess and sell cannabis products to a licensed wholesaler, product  
16 manufacturer, retailer, integrated licensee, and dispensary.

17 \* \* \*

18 Sec. 6. 7 V.S.A. § 904b is added to read:

19 § 904b. PROPAGATION LICENSE

20 (a) A propagation cultivator licensed under this section may:



1           (1) cultivate not more than 2,500 square feet of cannabis clones,

2           immature cannabis plants, or mature cannabis plants; and

3           (2) test, transport, and sell cannabis clones and immature cannabis  
4           plants to licensed cultivators; and

5           (3) test, transport, and sell cannabis seeds that meet the federal  
6           definition of hemp.

7           (b) A licensed propagation cultivator shall not cultivate mature cannabis  
8           plants for the purpose of producing, harvesting, transferring, or selling  
9           cannabis flower for or to any person.

10          Sec. 7. 7 V.S.A. § 905 is amended to read:

11          § 905. WHOLESALER LICENSE

12          A wholesaler licensed under this chapter may:

13                 (1) ~~purchase cannabis from a licensed cultivator and integrated licensee,~~  
14                 and cannabis products from a licensed ~~product manufacturer, integrated~~  
15                 ~~licensee, and dispensary~~ cannabis establishment;

16                 (2) transport, process, package, and sell cannabis and cannabis products  
17                 to a licensed ~~product manufacturer, retailer, integrated licensee, and dispensary~~  
18                 cannabis establishment; and

19                 (3) sell cannabis seeds or immature cannabis plants to a licensed  
20                 cultivator.

1       Sec. 8. 7 V.S.A. § 906 is amended to read:

2       § 906. PRODUCT MANUFACTURER LICENSE

3           A product manufacturer licensed under this chapter may:

4           (1) purchase cannabis ~~from a licensed cultivator, wholesalers, or~~  
5 ~~integrated licensee,~~ and cannabis products from a licensed ~~wholesaler, product~~  
6 ~~manufacturer, integrated licensee, and dispensary~~ cannabis establishment;

7           (2) use cannabis and cannabis products to produce cannabis products;  
8       and

9           (3) transport, process, package, and sell cannabis products to a licensed  
10 ~~wholesaler, product manufacturer, retailer, integrated licensee, and dispensary~~  
11 cannabis establishment.

12       Sec. 9. 7 V.S.A. § 907 is amended to read:

13       § 907. RETAILER LICENSE

14           (a) A retailer licensed under this chapter may:

15           (1) purchase cannabis ~~from a licensed cultivator, wholesaler, or~~  
16 ~~integrated licensee,~~ and cannabis products from a licensed ~~wholesaler, product~~  
17 ~~manufacturer, integrated licensee, and dispensary~~ cannabis establishment; and

18           (2) transport, possess, package, and sell cannabis and cannabis products  
19 to the public for consumption off the registered premises or for cultivation.

20                               \* \* \*

1 Sec. 10. 7 V.S.A. chapter 35 is amended to read:

2 CHAPTER 35. MEDICAL CANNABIS REGISTRY

3 § 951. DEFINITIONS

4 As used in this chapter:

5 \* \* \*

6 (8) “Qualifying medical condition” means:

7 (A) cancer, multiple sclerosis, positive status for human  
8 immunodeficiency virus, acquired immune deficiency syndrome, glaucoma,  
9 Crohn’s disease, Parkinson’s disease, post-traumatic stress disorder,  
10 Alzheimer’s disease; amyotrophic lateral sclerosis (ALS), autism spectrum  
11 disorder as provided by the latest edition of the Diagnostic and Statistical  
12 Manual of Mental Disorders, sickle cell disease, damage to the nervous tissue  
13 of the spinal cord with objective neurological indication of spasticity, epilepsy  
14 or uncontrolled seizure disorder, cerebral palsy, cystic fibrosis, irritable bowel  
15 syndrome, ulcerative colitis, or the treatment of these conditions, if the disease  
16 or the treatment results in severe, persistent, and intractable symptoms; or

17 (B) ~~post-traumatic stress disorder, provided the Department confirms~~  
18 ~~the applicant is undergoing psychotherapy or counseling with a licensed~~  
19 ~~mental health care provider; or~~

\* \* \*

\* \* \*

\* \* \*

1       § 954. CAREGIVERS

2           (a) Pursuant to rules adopted by the Board, a person may register with the  
3       Board as a caregiver of a registered patient to obtain the benefits of the  
4       Registry as provided in section 952 of this title.

5           (b)(1) The Board shall ~~adopt rules that set forth standards for determining~~  
6       ~~whether an applicant should be denied a caregiver card because of his or her~~  
7       ~~criminal history record. An applicant shall not be denied solely on the basis of~~  
8       ~~a criminal conviction that is not listed in 13 V.S.A. chapter 25 or 28~~ conduct a  
9       name and date of birth Vermont criminal conviction record background check  
10       and obtain information from the Child Protection Registry maintained by the  
11       Department for Children and Families and from the Vulnerable Adult Abuse,  
12       Neglect, and Exploitation Registry maintained by the Department of  
13       Disabilities, Aging, and Independent Living (collectively, the Registries) for  
14       any person who applies to be a caregiver. The Departments for Children and  
15       Families and of Disabilities, Aging, and Independent Living shall adopt rules  
16       governing the process for obtaining information from the Registries and for  
17       disseminating and maintaining records of that information under this  
18       subsection.

19           (2) ~~The Board shall obtain from the Vermont Crime Information Center~~  
20       ~~a copy of the caregiver applicant's fingerprint-based Vermont criminal history~~

1 ~~records, out-of-state criminal history records, and criminal history records from~~  
2 ~~the Federal Bureau of Investigation.~~

3 (c) The Board shall adopt rules that set forth standards for determining  
4 whether an applicant should be denied a ~~cannabis establishment license~~  
5 caregiver card because of ~~his or her criminal history record~~ the applicant's  
6 status on either Registry.

7 (d)(1) Except as provided in subdivision (2) of this subsection, a caregiver  
8 ~~shall serve only one patient~~ may serve not more than two patients at a time,  
9 and a patient shall have only one registered caregiver at a time. A patient may  
10 serve as a caregiver for one other patient.

11 (2) A patient who is under 18 years of age may have two caregivers.  
12 Additional caregivers shall be at the discretion of the Board.

13 § 955. REGISTRATION; FEES

14 (a) A registration card shall expire one year after the date of issuance for  
15 patients with a qualifying medical condition of chronic pain and the caregivers  
16 who serve those patients. For all other patients and the caregivers who serve  
17 those patients, a registration card shall expire five years after the date of  
18 issuance. A patient or caregiver may renew the card according to protocols  
19 adopted by the Board.

1 (b) The Board shall charge and collect a \$50.00 ~~annual~~ registration and  
2 renewal fee for patients and caregivers. Fees shall be deposited in the  
3 Cannabis Regulation Fund as provided in section 845 of this title.

4 § 956. RULEMAKING

5 The Board shall adopt rules for the administration of this chapter. ~~No rule~~  
6 ~~shall be more restrictive than any rule adopted by the Department of Public~~  
7 ~~Safety pursuant to 18 V.S.A. chapter 86.~~

8 Sec. 11. 7 V.S.A. § 977 is amended to read:

9 § 977. FEES

10 (a) The Board shall charge and collect the following fees for dispensaries:

11 (1) a one-time \$2,500.00 application fee;

12 (2) a ~~\$20,000.00~~ \$10,000.00 registration fee for the first year of  
13 operation;

14 (3) an annual renewal fee of ~~\$25,000.00~~ \$10,000.00 for a subsequent  
15 year of operation; and

16 (4) an annual Registry identification or renewal card fee of \$50.00 to be  
17 paid by the dispensary for each owner, principal, financier, and employee of  
18 the dispensary.

19 (b) Fees shall be deposited in the Cannabis Regulation Fund as provided in  
20 section 845 of this title.

1 Sec. 12. 7 V.S.A. § 1002 is amended to read:

2 § 1002. LICENSE REQUIRED; APPLICATION; FEE; ISSUANCE

3 (a)(1) No person shall engage in the retail sale of tobacco products, tobacco  
4 substitutes, or tobacco paraphernalia in ~~his or her~~ the person's place of  
5 business without a tobacco license obtained from the Division of Liquor  
6 Control.

7 (2) No person shall engage in the retail sale of tobacco substitutes  
8 without also obtaining a tobacco substitute endorsement from the Division of  
9 Liquor Control.

10 (3) Tobacco licenses and tobacco substitute endorsements shall expire at  
11 midnight, April 30, of each year.

12 (4) This subsection shall not apply to the retail sale of tobacco  
13 paraphernalia by a cannabis establishment licensed in accordance with chapter  
14 33 of this title or a medical cannabis dispensary licensed in accordance with  
15 chapter 37 of this title.

16 \* \* \*

17 Sec. 13. CANNABIS CONTROL BOARD POSITIONS; CANNABIS

18 QUALITY CONTROL PROGRAM; APPROPRIATION

19 (a) The establishment of the following new permanent classified positions  
20 is authorized in the Cannabis Control Board in fiscal year 2024:

21 (1) two new chemists; and



1           (2) one new Cannabis Quality Assurance Program Director.

2           (b) In fiscal year 2024, the amount of \$850,000.00 is transferred from the  
3           General Fund to the Cannabis Regulation Fund to acquire laboratory  
4           equipment and analytical instruments for the cannabis quality control program  
5           established pursuant to 7 V.S.A. § 885. The instruments shall be sufficient to  
6           test for cannabinoid content, moisture content, and homogeneity, and conduct  
7           analysis on residual solvents, pesticides, heavy metals, and human pathogens.

8           Sec. 14. 2020 Acts and Resolves No. 164, Sec. 6d is amended to read:

9           Sec. 6d. AUDITOR OF ACCOUNTS REPORT

10           On or before ~~November 15, 2023~~ November 15, 2024, the Auditor of  
11           Accounts shall report to the General Assembly regarding the organizational  
12           structure and membership of the Cannabis Control Board and whether the  
13           structure continues to be the most efficient for carrying out the statutory duties  
14           of the Board.

15           Sec. 15. EFFECTIVE DATE

16           This act shall take effect on July 1, 2023.

1 S.72

2 Introduced by Senators Sears and Ram Hinsdale

3 Referred to Committee on

4 Date:

5 Subject: Cannabis; prohibited products

6 Statement of purpose of bill as introduced: This bill proposes to lift the  
7 potency limitations on cannabis products sold by a licensed cannabis retailer.

8 An act relating to lifting the potency limits on concentrated cannabis  
9 products

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

11 Sec. 1. 7 V.S.A. § 868 is amended to read:

12 § 868. PROHIBITED PRODUCTS

13 ~~(a)~~ The following are prohibited products and may not be cultivated,  
14 produced, or sold pursuant to a license issued under this chapter:

15 (1) cannabis flower with greater than 30 percent tetrahydrocannabinol;

16 (2) flavored oil cannabis products sold prepackaged for use with battery-  
17 powered devices and any cannabis flower that contains characterizing flavor  
18 that is not naturally occurring in the cannabis;

19 (3) cannabis products that contain delta-9 tetrahydrocannabinol and  
20 nicotine or alcoholic beverages; and

1           (4) any cannabis, cannabis products, or packaging of such items that are  
2           designed to make the product more appealing to persons under 21 years of age.

3           ~~(b)(1) Except as provided by subdivision (2) of this subsection, solid and~~  
4           ~~liquid concentrate cannabis products with greater than 60 percent~~  
5           ~~tetrahydrocannabinol may be produced by a licensee and sold to another~~  
6           ~~licensee in accordance with subchapter 3 of this chapter but shall not be sold to~~  
7           ~~the public by a licensed retailer or integrated licensee.~~

8           ~~(2) Liquid concentrate cannabis products with greater than 60 percent~~  
9           ~~tetrahydrocannabinol that are prepackaged for use with battery powered~~  
10          ~~devices shall be permitted to be sold to the public by a licensed retailer or~~  
11          ~~integrated licensee.~~

12          Sec. 2. EFFECTIVE DATE

13          This act shall take effect on passage.

H.511

An act relating to eliminating penalties for possession of limited amounts of marijuana by adults 21 years of age or older

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

Sec. 1. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all penalties for possession of one ounce or less of marijuana and two mature and four immature marijuana plants for a person who is 21 years of age or older while retaining criminal penalties for possession, dispensing, and sale of larger amounts of marijuana.

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

\* \* \*

(15)(A) “Marijuana” means ~~any plant material of the genus cannabis or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562~~ all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Marijuana” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

\* \* \*

(43) “Immature marijuana plant” means a female marijuana plant that has not flowered and that does not have buds that may be observed by visual examination.

(44) “Mature marijuana plant” means a female marijuana plant that has flowered and that has buds that may be observed by visual examination.

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

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

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

to a drug assessment screening, which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than ~~three plants of~~ four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound ~~or more~~ of marijuana or more than 2.8 ounces ~~or more~~ of hashish or knowingly and unlawfully cultivating more than ~~10 plants of~~ six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds ~~or more~~ of marijuana or more than one pound ~~or more~~ of hashish or knowingly and unlawfully cultivating more than ~~25 plants of~~ 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's

motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

\* \* \*

Sec. 4. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE  
OR OLDER; ~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

~~(1) not more than \$200.00 for a first offense;~~

~~(2) not more than \$300.00 for a second offense;~~

~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use



shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind~~ A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law.

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

- (i) not more than \$100.00 for a first offense;
- (ii) not more than \$200.00 for a second offense; and
- (iii) not more than \$500.00 for a third or subsequent offense.

~~(c)(1) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies~~

~~concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2)(b)(1) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana possessed or consumed in violation of State law is contraband pursuant to ~~section 4242~~ subsection 4242(d) of this title and subject to seizure and forfeiture ~~unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense~~

(2) This section does not:

(A) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(B) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(C) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(D) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(E) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(F) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(e)~~(c)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (a) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is

unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation, which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use,  
consumption, possession, transfer, display, transportation, sale, or growing of  
marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 5. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS  
OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

\* \* \*

Sec. 6. REPEAL

18 V.S.A. § 4230d (marijuana possession by a person under 16 years of age; delinquency) is repealed.

Sec. 7. 18 V.S.A. § 4230e is added to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the written consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

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

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

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

Sec. 8. 18 V.S.A. § 4230f is added to read:

§ 4230f. DISPENSING MARIJUANA TO A PERSON UNDER  
21 YEARS OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) dispense marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under  
21 years of age.

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

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

(d) A person who violates subsection (a) of this section, where the person  
under 21 years of age while operating a motor vehicle on a public highway  
causes death or serious bodily injury to himself or herself or to another person  
as a result of the violation, shall be imprisoned not more than five years or  
fined not more than \$10,000.00, or both.

(e)(1) Subsections (a)–(d) of this section shall not apply to a person under  
21 years of age who dispenses marijuana to a person under 21 years of age or



who knowingly enables the consumption of marijuana by a person under 21 years of age.

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

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

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

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

(f) This section shall not apply to a dispensary that lawfully provides marijuana to a registered patient or caregiver pursuant to chapter 86 of this title.

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

Sec. 9. 18 V.S.A. § 4230g is added to read:

§ 4230g. DISPENSING MARIJUANA TO A PERSON UNDER

21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by knowingly dispensing marijuana to a person under 21 years of age or enabling the consumption of marijuana by a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who

knowingly dispensed the marijuana or enabled the consumption of the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f) A person who knowingly dispenses marijuana to a person under 21 years of age or who enables consumption of marijuana by a person under 21 years of age may be held liable under this section if the person knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

Sec. 10. 18 V.S.A. § 4230h is added to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE

PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 11. 18 V.S.A. § 4230i is added to read:

§ 4230i. EXCEPTIONS

(a) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

(1) not more than \$200.00 for a first offense;

(2) not more than \$300.00 for a second offense;

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

(b) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses any of the following commits a

misdemeanor and is subject to imprisonment of not more than one year or a fine of not more than \$1,000.00, or both:

(1) more than one ounce, but not more than two ounces of marijuana;

(2) more than five grams, but not more than 10 grams of hashish; or

(3) not more than six mature marijuana plants and 12 immature

marijuana plants.

Sec. 12. 18 V.S.A. § 4476 is amended to read:

§ 4476. OFFENSES AND PENALTIES

~~(a) No person shall sell, possess with intent to sell, or manufacture with intent to sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a regulated drug in violation of chapter 84 of this title. Whoever violates any provision of this section shall be punished by imprisonment for not more than one year or by a fine of not more than \$1,000.00, or both.~~

~~(b) Any~~ A person who ~~violates subsection (a) of this section by selling~~ sells drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years or fined not more than \$2,000.00, or both.

~~(e)~~(b) The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title.

Sec. 13. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume an alcoholic ~~beverages~~ beverage or marijuana while operating a motor vehicle on a public highway. As used in this subsection, the prohibition on consumption of marijuana by the operator shall extend to the operator's consumption of secondhand marijuana smoke in the vehicle as a result of another person's consumption of marijuana. As used in this section, "alcoholic beverages" shall have the same meaning as "alcohol" as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains an alcoholic ~~beverages~~ beverage or marijuana in the passenger area of the motor vehicle.

(c) As used in this section:

(1) "Alcoholic beverage" shall have the same meaning as "alcohol" as defined in section 1200 of this title.

(2) "~~passenger~~ Passenger area" shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area

that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who ~~violates~~ possesses an open container which contains an alcoholic beverage in violation of subsection (b) of this section shall be assessed a civil penalty of not more than \$25.00. A person who possesses an open container which contains marijuana in violation of subsection (b) of this section shall be assessed a civil penalty of not more than \$200.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 14. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR  
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume an alcoholic beverage or marijuana ~~or possess any open container which contains alcoholic beverages~~ in the passenger area of any motor vehicle on a public highway. ~~As used in this~~

~~section, “alcoholic beverages” shall have the same meaning as “alcohol” as defined in section 1200 of this title.~~

(b) A passenger in a motor vehicle shall not possess any open container which contains an alcoholic beverage or marijuana in the passenger area of the motor vehicle.

(c) As used in this section:

(1) “Alcoholic beverage” shall have the same meaning as “alcohol” as defined in section 1200 of this title.

(2) ~~“passenger~~ Passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

~~(c)~~(d) A person, other than the operator, may possess an open container which contains an alcoholic ~~beverages~~ beverage in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.



~~(d)~~(e) A person who ~~violates~~ consumes an alcoholic beverage or possesses an open container which contains an alcoholic beverage in violation of this section shall be ~~fined~~ assessed a civil penalty of not more than \$25.00.

A person who consumes marijuana or possesses an open container which contains marijuana in violation of this section shall be assessed a civil penalty of not more than \$200.00.

Sec. 15. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING USING TOBACCO OR MARIJUANA IN A MOTOR  
VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product or use a tobacco substitute as defined in 7 V.S.A. § 1001 in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person shall not use marijuana as defined in 18 V.S.A. § 4201 in a motor vehicle that is occupied by a child under 18 years of age.

(c)(1) A person who violates subsection (a) of this section shall be subject to a ~~fine~~ civil penalty of not more than \$100.00. ~~No~~ and no points shall be assessed ~~for a violation of this section.~~

(2) A person who violates subsection (b) of this section commits a misdemeanor crime and shall be subject to the following penalties:

(A) a fine of not more than \$500.00 for a first offense;

(B) a fine of not more than \$750.00 for a second offense;

(C) a fine of not more than \$1,000.00 for a third or subsequent offense.

(3) A person who violates subsection (b) of this section shall be assessed two points.

Sec. 16. 33 V.S.A. § 3504 is amended to read:

§ 3504. MARIJUANA AND TOBACCO USE PROHIBITED AT CHILD  
CARE FACILITIES

(a) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201 or to cultivate marijuana, or use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time.

(b) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201, tobacco products, or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both ~~indoor~~ indoors and in any outdoor area designated for child care, of a licensed or registered family child care home while children are present and in care. If use of marijuana or smoking of tobacco products or tobacco substitutes occurs on the premises during other times, the family child care home shall notify prospective families prior to enrolling a child in the family child care home that their child will be exposed to an environment in

which marijuana, tobacco products, or tobacco substitutes, ~~or both~~, are used.  
Cultivation of marijuana in a licensed or registered family child care home is not permitted.

(c) A person who knowingly uses or cultivates marijuana in violation of this section commits a misdemeanor crime and shall be subject to the following penalties:

(1) a fine of not more than \$500.00 for a first offense;

(2) a fine of not more than \$750.00 for a second offense;

(3) a fine of not more than \$1,000.00 for a third or subsequent offense.

#### Sec. 17. DISPARITIES IN ENFORCEMENT OF DRUG LAWS

Findings. The General Assembly finds that:

(1) A 2013 report by the American Civil Liberties Union, The War on Marijuana in Black and White, identified Vermont as 15th in the country and first in New England when comparing discrepancies in citation and arrest rates for marijuana possession. The report stated that African-Americans in Vermont were 4.36 times more likely to be cited or arrested for marijuana possession than whites, higher than the national average of African-Americans being 3.73 more likely than whites to be cited or arrested for marijuana possession. Although Vermont later decriminalized possession of small amounts of marijuana, a 2016 report by Human Rights Watch and the ACLU, Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United

States, found that Vermont had the third-highest racial disparity in drug possession arrest rates in the country despite nearly identical use rates.

(2) In the report, Driving While Black or Brown in Vermont, University of Vermont researchers, examining 2015 data from 29 police agencies covering 78 percent of Vermont's population, found significant disparities in how often African-Americans and Hispanics are stopped, searched, and arrested, as compared to whites and Asians. According to the report, African-American drivers are four times more likely than white drivers to be searched by Vermont police, even though they are less likely to be found with illegal items.

(3) As part of efforts to eliminate implicit bias in Vermont's criminal justice system, policymakers must reexamine the State's drug laws, beginning with its policy on marijuana.

(4) According to a 2014 study conducted by the RAND Corporation, an estimated 80,000 Vermont residents regularly consume marijuana. Except for patients on the Vermont Medical Marijuana Registry, these Vermonters obtain marijuana through a thriving illegal market.

(5) In November 2016, voters in Massachusetts and Maine approved possession and cultivation of marijuana for personal use by adults 21 years of age or older. In July 2018, both states will begin to allow retail sales of marijuana and marijuana-infused products through licensed stores. Canada is

expected to act favorably on legislation legalizing marijuana possession and cultivation for adults 18 years of age or older and federal administration officials have cited the summer of 2018 as the date at which licensed retail stores will begin selling marijuana and marijuana-infused products to the public.

(6) By adopting a comprehensive regulatory structure for legalizing and licensing the marijuana market, Vermont can revise drug laws that have a disparate impact on racial minorities, help prevent access to marijuana by youths, better control the safety and quality of marijuana being consumed by Vermonters, substantially reduce the illegal marijuana market, and use revenues to support substance use prevention and education and enforcement of impaired driving laws. The Governor's Marijuana Advisory Commission, as provided in Executive Order No. 15-17, has been directed to report on such a system on or before December 15, 2018.

#### Sec. 18. EFFECTIVE DATES

This section and Sec. 17 shall take effect on passage and the remaining sections shall take effect on July 1, 2018.

S.16

An act relating to expanding patient access to the Medical Marijuana Registry.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

As used in this subchapter:

(1)(A) “Bona fide health care professional-patient relationship” means a treating or consulting relationship of not less than three months’ duration, in the course of which a health care professional has completed a full assessment of the registered patient’s medical history and current medical condition, including a personal physical examination.

(B) The three-month requirement shall not apply if:

(i) a patient has been diagnosed with:

(I) a terminal illness;

(II) cancer; or

(III) acquired immune deficiency syndrome; ~~or~~

~~(IV) is currently under hospice care.~~

(ii) a patient is currently under hospice care;

~~(ii)(iii)~~ (iii) a patient had been diagnosed with a debilitating medical condition by a health care professional in another jurisdiction in which the

patient had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as provided in subdivision (6) of this section, and the new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

~~(iii)~~(iv) a patient who is already on the ~~registry~~ Registry changes health care professionals three months or less prior to the annual renewal of the patient's registration, provided the patient's new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

(v) a patient is referred by his or her health care professional to another health care professional who has completed advanced education and clinical training in specific debilitating medical conditions, and that health care professional conducts a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

(vi) a patient's debilitating medical condition is of recent or sudden onset.

\* \* \*

(4) "Debilitating medical condition;" ~~provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this~~

~~subdivision (4), reasonable medical efforts have been made over a reasonable amount of time to relieve the symptoms, means:~~

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, Crohn's disease, Parkinson's disease, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; ~~or~~

(B) post-traumatic stress disorder, provided the Department confirms the applicant is undergoing psychotherapy or counseling with a licensed mental health care provider; or

(C) a disease, or medical condition, or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: cachexia or wasting syndrome; chronic pain; severe nausea; or seizures.

(5) "Dispensary" means a ~~nonprofit entity~~ business organization registered under section 4474e of this title ~~which~~ that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient's use for symptom relief. ~~A dispensary may provide marijuana for symptom relief to registered patients at only one facility or location, but may have a~~



~~second location associated with the dispensary where the marijuana is cultivated or processed. Both locations are considered to be part of the same dispensary.~~ A dispensary may serve patients and caregivers at not more than three locations, as approved by the Department in consideration of factors provided in subsection 4474f(e) of this title, and may cultivate and process marijuana at a separate location from where patients and caregivers are served. All locations shall be considered part of the same dispensary operation under one registration.

(6) “Financier” means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an investment in, or a gift, loan, or other financing to, another person with the expectation of a financial return. If a financier is a business organization, as used in this chapter, the term “financier” includes each owner and principal of that organization.

~~(6)(7)~~(A) “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

~~(7)~~(8) “Immature marijuana plant” means a female marijuana plant that has not flowered and which does not have buds that may be observed by visual examination.

~~(8)~~(9) “Marijuana” shall have the same meaning as provided in subdivision 4201(15) of this title.

~~(9)~~(10) “Mature marijuana plant” means a female marijuana plant that has flowered and which has buds that may be observed by visual examination.

(11) “Mental health care provider” means a person licensed to practice medicine who specializes in the practice of psychiatry; a psychologist, a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; or a clinical mental health counselor as defined in 26 V.S.A. § 3261.

(12) “Ounce” means 28.35 grams.

(13) “Owner” means:

(A) a person that has a direct or beneficial ownership interest of ten percent or more in a business organization, including attribution of the ownership interests of a spouse or domestic partner, parent, spouse’s or domestic partner’s parent, sibling, and children; or

(B) a person that has the power to direct, or cause the direction of, the management and policies of a business organization, including through the ownership of voting securities, by contract, or otherwise.

~~(10)~~(14) “Possession limit” means the amount of marijuana collectively possessed between the registered patient and the patient’s registered caregiver ~~which~~ that is no more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana.

(15) “Principal” means a person that has the authority to conduct, manage, or supervise the operation of a business organization, and includes the president, vice president, secretary, treasurer, manager, or similar executive officer of a business organization; a director of a business corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; a manager of a manager-managed limited liability company; and a general partner of a partnership, limited partnership, or limited liability partnership.

~~(11)~~(16) “Registered caregiver” means a person who is at least 21 years of age, has met eligibility requirements as determined by the Department in accordance with this chapter, and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

~~(12)~~(17) “Registered patient” means a resident of Vermont who has been issued a registration card by the Department of Public Safety, identifying the person as having a debilitating medical condition pursuant to the provisions

of this subchapter. “Resident of Vermont” means a person whose domicile is Vermont.

~~(13)~~(18) “Secure indoor facility” means a building or room equipped with locks or other security devices that permit access only by a registered caregiver; or registered patient; ~~or a principal officer or employee of a dispensary.~~

~~(14)~~(19) “Transport” means the movement of marijuana and marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered caregivers in accordance with delivery protocols, or as otherwise allowed under this subchapter.

~~(15)~~(20) “Usable marijuana” means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

~~(16)~~(21) “Use for symptom relief” means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana; or of paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient’s debilitating medical condition ~~which~~ that is in compliance with all the limitations and restrictions of this subchapter.

Sec. 2. 18 V.S.A. § 4473 is amended to read:

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND  
PROCEDURES

\* \* \*

(b) The Department of Public Safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit a signed application for registration to the Department. ~~A patient's initial application to the registry shall be notarized, but subsequent renewals shall not require notarization.~~ If the patient is under 18 years of age, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient's registered caregiver applying for authorization under section 4474 of this title, if any, and the patient's designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the Department pursuant to subdivision (2) of this subsection.

(2) The Department of Public Safety shall develop a medical verification form to be completed by a health care professional and submitted by a patient applying for registration in the program. The form shall include:

(A) A cover sheet ~~which~~ that includes the following:

(i) A statement of the penalties for providing false information.

(ii) Definitions of the following statutory terms:

(I) “Bona fide health care professional-patient relationship” as defined in section 4472 of this title.

(II) “Debilitating medical condition” as defined in section 4472 of this title.

(III) “Health care professional” as defined in section 4472 of this title.

(iii) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

(B) A verification sheet ~~which~~ that includes the following:

(i) A statement that a bona fide health care professional-patient relationship exists under section 4472 of this title; or that, under subdivision (3)(A) of this subsection (b), the debilitating medical condition is of recent or sudden onset, ~~and the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms.~~

(ii) ~~A statement that reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms.~~

[Repealed.]

(iii) A statement that the patient has a debilitating medical condition as defined in section 4472 of this title, including the specific disease or condition ~~which~~ that the patient has and whether the patient meets the criteria under section 4472.

(iv) A signature line ~~which~~ that provides in substantial part:  
“I certify that I meet the definition of ‘health care professional’ under 18 V.S.A. § 4472, that I am a health care professional in good standing in the State of ..... , and that the facts stated above are accurate to the best of my knowledge and belief.”

(v) The health care professional’s contact information, license number, category of his or her health care profession as defined in subdivision 4472(6) of this title, and contact information for the out-of-state licensing agency, if applicable. The Department of ~~Public Safety~~ shall adopt rules for verifying the goodstanding of out-of-state health care professionals.

(vi) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

(3)(A) The Department of ~~Public Safety~~ shall transmit the completed medical verification form to the health care professional and contact him or her for purposes of confirming the accuracy of the information contained in the

~~form. The Department may approve an application, notwithstanding the six-month requirement in section 4472 of this title, if the Department is satisfied that the medical verification form confirms that the debilitating medical condition is of recent or sudden onset, and that the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms.~~

(B) If the health care professional is licensed in another state as provided section 4472 of this title, the Department shall verify that the health care professional is in good standing in that state.

\* \* \*

Sec. 3. 18 V.S.A. § 4474(c)(1) is amended to read:

(c)(1) Except as provided in subdivision (2) of this subsection, a registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time. A registered patient may serve as a registered caregiver for one other registered patient.

Sec. 4. 18 V.S.A. § 4474d is amended to read:

§ 4474d. LAW ENFORCEMENT VERIFICATION OF INFORMATION;

#### RULEMAKING

\* \* \*

(b) In response to a person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation



or prosecution, the Department may verify the identities and registered property addresses of the registered patient and the patient's registered caregiver, a dispensary, ~~and the principal officer, the Board members, and an~~ owner, a principal, a financier, and the employees of a dispensary.

(c) The Department shall maintain a separate secure electronic database accessible to law enforcement personnel 24 hours a day that uses a unique identifier system to allow law enforcement to verify that a person or entity is a registered patient, a registered caregiver, a dispensary, ~~or the principal officer, a board member~~ an owner, a principal, a financier, or an employee of a dispensary.

\* \* \*

Sec. 5. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

\* \* \*

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in ~~an enclosed~~ a secure, locked facility which is either indoors or ~~otherwise outdoors, but~~ not visible to the public, and which can only be accessed by ~~principal officers~~ the owners, principals, financiers, and employees of the

dispensary who have valid ~~registry~~ Registry identification cards. An outdoor facility is not required to have a roof provided all other requirements are met.

The Department of ~~Public Safety~~ shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' ~~registry~~ Registry identification numbers to protect their confidentiality.

\* \* \*

(f) A person may be denied the right to serve as an owner, ~~a principal officer, board member, financier,~~ or employee of a dispensary because of the person's criminal history record in accordance with section 4474g of this title and rules adopted by the Department of Public Safety pursuant to that section.

(g)(1) A dispensary shall notify the Department of ~~Public Safety~~ within 10 days of when ~~a principal officer, board member,~~ an owner, principal, financier, or employee ceases to be associated with or work at the dispensary. His or her ~~registry~~ Registry identification card shall be deemed null and void, and the person shall be liable for any penalties that may apply.

(2) A dispensary shall notify the Department of ~~Public Safety~~ in writing of the name, address, and date of birth of any proposed new ~~principal officer, board member~~ owner, principal, financier, or employee and shall submit a fee for a new ~~registry~~ Registry identification card before a new ~~principal officer, board member~~ owner, principal, financier, or employee begins his or her official duties related to the dispensary and shall submit a complete set of fingerprints for ~~the each~~ prospective ~~principal officer, board member~~ owner, principal, financier, or employee who is a natural person.

\* \* \*

(k)(1) No dispensary; ~~principal officer, board member~~ owner, principal, financier of a dispensary shall:

\* \* \*

(B) acquire usable marijuana or marijuana plants from any source other than registered dispensary ~~principal officers, board members~~ owners, principals, financiers, or employees who cultivate marijuana in accordance with this subchapter;

(C) dispense more than two ounces of usable marijuana to a registered patient directly or through the qualifying patient's registered caregiver during a 30-day period;

(D) dispense an amount of usable marijuana to a qualifying patient or a designated caregiver that the ~~principal officer, board member~~ owner,

principal, financier, or employee knows would cause the recipient to possess more marijuana than is permitted under this subchapter;

(E) dispense marijuana to a person other than a registered patient who has designated the dispensary to provide for his or her needs or other than the patient's registered caregiver.

(2) A person found to have violated subdivision (1) of this subsection may no longer serve as ~~a principal officer, board member~~ an owner, principal, financier, or employee of any dispensary, and such person's ~~registry~~ Registry identification card shall be immediately revoked by the Department of ~~Public Safety~~.

(1)(1) A registered dispensary shall not be subject to the following, provided that it is in compliance with this subchapter:

(A) prosecution for the acquisition, possession, cultivation, manufacture, transfer, transport, supply, sale, or dispensing of marijuana, marijuana-infused products, or marijuana-related supplies for symptom relief in accordance with the provisions of this subchapter and any rule adopted by the Department of ~~Public Safety~~ pursuant to this subchapter;

(B) inspection and search, except pursuant to this subchapter or upon a search warrant issued by a court or judicial officer;

(C) seizure of marijuana, marijuana-infused products, and marijuana-related supplies, except upon a valid order issued by a court;

(D) imposition of any penalty or denied any right or privilege, including imposition of a civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for acting in accordance with this subchapter to assist registered patients or registered caregivers.

(2) No ~~principal officer, board member~~ owner, principal, financier, or employee of a dispensary shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for working for or with a dispensary to engage in acts permitted by this subchapter.

\* \* \*

Sec. 6. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND  
REGISTRATION

\* \* \*

(c) Each application for a dispensary registration certificate shall include all of the following:

(1) a nonrefundable application fee in the amount of \$2,500.00 paid to the Department of ~~Public Safety~~;

(2) the legal name, ~~articles of incorporation, and bylaws~~ of the dispensary and the organizational documents that create the dispensary, govern its operation and internal affairs, and govern relations between and among its owners;

(3) the proposed physical address of the dispensary, if a precise address has been determined or, if not, the general location where it would be located;

(4) a description of the ~~enclosed~~ secure, locked facility where marijuana will be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary;

(5) the name, address, and date of birth of each ~~principal officer and board member~~ owner, principal, and financier of the dispensary who is a natural person and a complete set of fingerprints for each of them;

(6) proposed security and safety measures, which shall include at least one security alarm system for each location and planned measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana;

(7) proposed procedures to ensure accurate record-keeping.

(d) Any time one or more dispensary registration applications are being considered, the Department of ~~Public Safety~~ shall solicit input from registered patients and registered caregivers.

(e) Each time a dispensary certificate is granted, the decision shall be based on the overall health needs of qualified patients. The following factors shall weigh heavily in the consideration of an application:

(1) geographic convenience to patients from throughout the State of Vermont to a dispensary if the applicant were approved;

(2) the entity's ability to provide an adequate supply to the registered patients in the State;

(3) the entity's ability to demonstrate ~~its board members'~~ that its owners, principals, and financiers have sufficient experience running a ~~nonprofit organization or~~ business;

(4) the comments, if any, of registered patients and registered caregivers regarding which applicant should be granted a registration certificate;

(5) the sufficiency of the applicant's plans for record-keeping, which records shall be considered confidential health care information under Vermont law and are intended to be deemed protected health care information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, as amended;

(6) the sufficiency of the applicant's plans for safety and security, including the proposed location and security devices employed.

(f) The Department of ~~Public Safety~~ may deny an application for a dispensary if it determines that an applicant's criminal history record indicates

that the ~~person's~~ association of an owner, principal, or financier with a dispensary would pose a demonstrable threat to public safety.

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the Department:

(1) the legal name ~~and articles of incorporation~~ of the dispensary and the organizational documents that create the dispensary, govern its operation and internal affairs, and govern relations between and among its owners;

(2) the physical address of the dispensary;

(3) the name, address, and date of birth of each ~~principal officer and board member~~ owner, principal, and financier of the dispensary along with a complete set of fingerprints for each;

(4) a registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$25,000.00 in subsequent years.

Sec. 7. 18 V.S.A. § 4474g is amended to read:

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD;

#### CRIMINAL BACKGROUND CHECK

(a) Except as provided in subsection (b) of this section, the Department ~~of Public Safety~~ shall issue each ~~principal officer, Board member~~ owner, principal, financier, and employee of a dispensary a ~~registry~~ Registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by



the dispensary and the cost shall not be passed on to a ~~principal officer, Board member~~ an owner, principal, financier, or employee. A person shall not serve as ~~principal officer, Board member~~ an owner, principal, financier, or employee of a dispensary until that person has received a ~~registry~~ Registry identification card issued under this section. Each card shall specify whether the cardholder is a ~~principal officer, Board member~~ an owner, principal, financier, or employee of a dispensary and shall contain the following:

- (1) the name, address, and date of birth of the person;
- (2) the legal name of the dispensary with which the person is affiliated;
- (3) a random identification number that is unique to the person;
- (4) the date of issuance and the expiration date of the ~~registry~~ Registry

identification card; and

- (5) a photograph of the person.

(b) Prior to acting on an application for a ~~registry~~ Registry identification card, the Department of ~~Public Safety~~ shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department of ~~Public Safety~~ obtains a criminal history record, the Department shall promptly provide a copy of the record to the

applicant and to the ~~principal officer and Board~~ owner, principal, or financier of the dispensary if the applicant is to be an employee. The Department shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Department.

(d) The Department of ~~Public Safety~~ shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(e) The Department of ~~Public Safety~~ shall not issue a ~~registry~~ Registry identification card to any applicant who has been convicted of a drug-related offense or a violent felony or who has a pending charge for such an offense. ~~For purposes of~~ As used in this subchapter, “violent felony” means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(f) The Department of ~~Public Safety~~ shall adopt rules for the issuance of a ~~registry~~ Registry identification card and shall set forth standards for determining whether an applicant should be denied a ~~registry~~ Registry identification card because his or her criminal history record indicates that the person’s association with a dispensary would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction

for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in subsection (e) of this section shall not automatically disqualify a person for a ~~registry~~ Registry identification card. A dispensary may deny a person the opportunity to serve as a Board member or an employee based on his or her criminal history record. An applicant who is denied a ~~registry~~ Registry identification card may appeal the ~~Department of Public Safety's~~ Department's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) A registration identification card of a ~~principal officer, Board member~~ an owner, principal, or financier, or employee shall expire one year after its issuance or upon the expiration of the registered organization's registration certificate, whichever occurs first.

Sec. 8. 18 V.S.A. § 4474h is amended to read:

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient or his or her caregiver may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. ~~If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary.~~ A registered patient who wishes to change his or her dispensary shall notify the Department of ~~Public Safety~~ in writing on a form issued by the

Department and shall submit with the form a fee of \$25.00. The Department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the Department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 30-day period.

\* \* \*

Sec. 9. AUTHORITY FOR CURRENTLY REGISTERED NONPROFIT  
DISPENSARY TO CONVERT TO FOR-PROFIT BUSINESS

(a) Notwithstanding any contrary provision of Title 11B of the Vermont Statutes Annotated, a nonprofit dispensary registered pursuant to 18 V.S.A. chapter 86 may convert to a different type of business organization by approving a plan of conversion pursuant to this section.

(b) A plan of conversion shall include:

- (1) the name of the converting organization;
- (2) the name and type of organization of the converted organization;
- (3) the manner and basis for converting the assets of the converting organization into interests in the converted organization or other consideration;

(4) the proposed organizational documents of the converted organization; and

(5) the other terms and conditions of the conversion.

(c) A converting organization shall approve a plan of conversion by a majority vote of its directors, and by a separate majority vote of its members if it has members.

(d) A converting organization may amend or abandon a plan of conversion before it takes effect in the same manner it approved the plan, if the plan does not specify how to amend the plan.

(e) A converting organization shall sign a statement of conversion and deliver it to the Secretary of State for filing. A statement of conversion shall include:

(1) the name and type of organization prior to the conversion;

(2) the name and type of organization following the conversion;

(3) a statement that the converting organization approved the plan of conversion in accordance with the provisions of this act; and

(4) the organizational documents of the converted organization.

(f) The conversion of a nonprofit dispensary takes effect when the statement of conversion takes effect, and when the conversion takes effect:

(1) The converted organization is:

(A) organized under and subject to the governing statute of the converted organization; and

(B) the same organization continuing without interruption as the converting organization.

(2) Subject to the plan of conversion, the property of the converting organization continues to be vested in the converted organization without transfer, assignment, reversion, or impairment.

(3) The debts, obligations, and other liabilities of the converting organization continue as debts, obligations, and other liabilities of the converted organization.

(4) A court or other authority may substitute the name of the converted organization for the name of the converting organization in any pending action or proceeding.

(5) The organizational documents of the converted organization take effect.

(6) The assets of the converting organization are converted pursuant to the plan of conversion.

(g) When a conversion takes effect, a person that did not have personal liability with respect to the converting organization and becomes subject to personal liability with respect to the converted organization as a result of the conversion has personal liability only to the extent provided by the governing

statute of the converted organization and only for those debts, obligations, and other liabilities that the converted organization incurs after the conversion.

(h) When a conversion takes effect, a person that had personal liability for a debt, obligation, or other liability of the converting organization but that does not have personal liability with respect to the converted organization is subject to the following rules:

(1) The conversion does not discharge any personal liability under this title to the extent the personal liability was incurred before the conversion took effect.

(2) The person does not have personal liability under this title for any debt, obligation, or other liability that arises after the conversion takes effect.

(3) Title 11B of the Vermont Statutes Annotated continues to apply to the release, collection, or discharge of any personal liability preserved under subdivision (1) of this subsection as if the conversion had not occurred.

(i) A conversion does not require an organization to wind up its affairs and does not constitute or cause the dissolution of the organization.

#### Sec. 10. MARIJUANA-INFUSED PRODUCT TESTING; REPORT

The General Assembly recognizes the importance of independent testing of marijuana-infused products sold by dispensaries to determine proper labeling of products in compliance with 18 V.S.A. § 4474e. Therefore, the Agency of Agriculture, Food and Markets and the Department of Public Safety, in

consultation with registered dispensaries, shall report their recommendations to the Joint Committee on Justice Oversight and the General Assembly no later than October 15, 2017 on the following:

- (1) Who should be responsible for testing marijuana-infused products.
- (2) The approved methods and frequency of testing.
- (3) Estimated costs associated with such testing and how these costs should be funded.
- (4) If testing will be done through an independent testing entity, the process by which the State will certify such entities and oversee such testing.
- (5) How to implement a weights and measures program for medical marijuana dispensaries.

Sec. 11. MEDICAL MARIJUANA REGISTRY; WEB PAGE

The Department of Public Safety and the Agency of Digital Services shall develop an independent web page for the Medical Marijuana Registry, separate from any other registry or program administered by the Department, that is up-to-date and user-friendly on or before September 30, 2017 and shall report to the General Assembly on activation of the web page at such time.

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2017.



1 S.234

2 Introduced by Senator Sears

3 Referred to Committee on Judiciary

4 Date: January 7, 2020

5 Subject: Court procedure; criminal procedure; miscellaneous amendments

6 Statement of purpose of bill as introduced: This bill proposes to make a  
7 number of miscellaneous amendments related to civil and criminal procedure  
8 statutes.

9 An act relating to miscellaneous judiciary procedures

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

11 ~~Sec. 1. 7 V.S.A. § 656 is amended to read:~~

12 § 656. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE,  
13 PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC  
14 BEVERAGES; CIVIL VIOLATION.

15 (a)(1) Prohibited conduct. A person 16 years of age or older and under  
16 21 years of age shall not:

17 (A) Falsely represent his or her age for the purpose of procuring or  
18 attempting to procure malt or vinous beverages, spirits, or fortified wines from  
19 ~~any licensee, State liquor agency, or other person or persons.~~

1           ~~(B) Possess malt or vinous beverages, spirits, or fortified wines for~~  
2           the purpose of consumption by himself or herself or other minors, except in  
3           the regular performance of duties as an employee of a licensee licensed to sell  
4           alcoholic liquor.

5           (C) Consume malt or vinous beverages, spirits, or fortified wines. A  
6           violation of this subdivision may be prosecuted in a jurisdiction where the  
7           minor has consumed malt or vinous beverages, spirits, or fortified wines or in  
8           a jurisdiction where the indicators of consumption are observed.

9           (2) Offense. A person ~~under 21 years of age~~ who knowingly violates  
10          subdivision (1) of this subsection commits a civil violation and shall be  
11          referred to the Court Diversion Program for the purpose of enrollment in the  
12          Youth Substance Abuse Safety Program. A person who fails to complete the  
13          program successfully shall be subject to:

14                (A) a civil penalty of \$300.00 and suspension of the person's  
15                operator's license and privilege to operate a motor vehicle for a period of  
16                30 days, for a first offense; and

17                (B) a civil penalty of not more than \$600.00 and suspension of the  
18                person's operator's license and privilege to operate a motor vehicle for a  
19                period of 90 days, for a second or subsequent offense.

20           (b) Issuance of notice of violation. A law enforcement officer shall issue a  
21          ~~person under 21 years of age who violates this section a notice of violation, in~~

1 ~~a form approved by the Court Administrator. The notice of violation shall~~

2 require the person to provide his or her name and address and shall explain

3 procedures under this section, including that:

4 \* \* \*

5 Sec. 2. 23 V.S.A. § 203 is amended to read:

6 § 203. COUNTERFEITING, FRAUD, AND MISUSE; PENALTY

7 (a) A person shall not:

8 \* \* \*

9 (2) display or cause or permit to be displayed, or have in his or her

10 possession, any fictitious or fraudulently altered operator license, learner's

11 permit, nondriver identification card, inspection sticker, or registration

12 certificate, or display for any fraudulent purpose an expired or counterfeit

13 insurance identification card or similar document;

14 \* \* \*

15 (b)(1) A Except as provided in subdivision (2) of this subsection, a

16 violation of subsection (a) of this section shall be a traffic violation for which

17 there shall be a penalty of not more than \$1,000.00. If a person is found to

18 have committed the violation, the person's privilege to operate motor vehicles

19 shall be suspended for 60 days.

20 (2) If a person may be charged with a violation of subdivision (a)(2) of

21 this section or with a violation of 7 V.S.A. § 656 or 18 V.S.A. § 4230b, the

1 ~~person shall be charged with a violation of 7 V.S.A. § 656 or 18 V.S.A.~~

2 § 4230b and not with a violation of this section.

3 Sec. 3. 12 V.S.A. § 2903(d) is amended to read:

4 (d) If a judgment lien is not satisfied within 30 days of recording, it may be  
5 foreclosed and redeemed as provided in this title and V.R.C.P. 80.1. Unless the  
6 court finds that as of the date of foreclosure the amount of the outstanding debt  
7 exceeds the value of the real property being foreclosed, ~~section 4531~~ chapter  
8 172 of this title shall apply to foreclosure of a judgment lien.

9 Sec. 4. 12 V.S.A. § 5812 is amended to read:

10 § 5812. OATH TO BE ADMINISTERED TO ATTORNEYS

11 You solemnly swear that you will do no falsehood, nor consent that any be  
12 done in court, and if you know of any, you will give knowledge thereof to the  
13 judges of the court or some of them, that it may be reformed; that you will not  
14 wittingly, willingly, or knowingly promote, sue, or procure to be sued, any  
15 false or unlawful suit, or give aid or consent to the same; that you will delay  
16 no ~~man~~ person for lucre or malice, but will act in the office of attorney within  
17 the court, according to your best learning and discretion, with all good fidelity  
18 as well to the court as to your client. So help you God.

19 Sec. 5. 13 V.S.A. § 3256 is amended to read:

20 ~~§ 3256. TESTING FOR INFECTIOUS DISEASES~~

1 ~~(a)(1)(A) The victim of an offense involving a sexual act may obtain an~~  
2 order from the Criminal or Family Division of the Superior Court in which the  
3 offender was convicted of the offense, or was adjudicated delinquent, requiring  
4 that the offender be tested for the presence of the etiologic agent for acquired  
5 immune deficiency syndrome (AIDS) and other sexually-transmitted diseases,  
6 including gonorrhea, herpes, chlamydia, and syphilis.

7 (B) The victim of an offense involving a sexual act may, if the  
8 evidence of guilt is great, obtain an order from the Criminal or Family  
9 Division of the Superior Court in which the offender was charged with the  
10 offense requiring that the offender be tested for the presence of  
11 immunodeficiency virus (HIV) within 48 after the offender was charged.

12 (2) If requested by the victim, the State's Attorney shall petition the  
13 court on behalf of the victim for an order under this section. For the purposes  
14 of this section, "offender" includes a juvenile adjudicated a delinquent.

15 (b) ~~For purposes of~~ As used in this section, "sexual act" means a criminal  
16 offense:

17 (1) where the underlying conduct of the offender constitutes a sexual act  
18 as defined in section 3251 of this title; and

19 (2) that creates a risk of transmission of the etiologic agent for AIDS to  
20 the victim as determined by the federal Centers for Disease Control and  
21 ~~Prevention.~~

1 ~~(c) If the court determines pursuant to subdivision (a)(1)(A) of this section~~  
2 that the offender was convicted or adjudicated of a crime involving a sexual  
3 act with the victim, or that pursuant to subdivision (a)(1)(B) of this section that  
4 the offender was charged with a crime involving a sexual act with the victim  
5 and the evidence of guilt is great, the court shall order the test to be  
6 administered by the Department of Health in accordance with applicable law.  
7 If appropriate under the circumstances, the court may include in its order a  
8 requirement for follow-up testing of the offender. An order for follow-up  
9 testing shall be terminated if the offender's conviction is overturned. A  
10 sample taken pursuant to this section shall be used solely for purposes of this  
11 section. All costs of testing the offender shall, if not otherwise funded, be paid  
12 by the Department of Public Safety.

13 (d) The results of the offender's test shall be disclosed only to the offender  
14 and the victim.

15 (e) If an offender who is subject to an order pursuant to subsection (c) of  
16 this section refuses to comply with the order, the victim, or State's Attorney on  
17 behalf of the victim, may seek a civil contempt order pursuant to 12 V.S.A.  
18 chapter 5.

19 (f) After arraignment, a defendant who is charged with an offense  
20 involving a sexual act may offer to be tested for the presence of the etiologic  
21 ~~agent for acquired immune deficiency syndrome (AIDS) and other sexually~~

1 ~~transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis.~~

2 Such testing shall follow the same procedures set forth for testing an offender  
3 who is subject to an order pursuant to subsection (c) of this section. The  
4 defendant's offer to be tested after arraignment shall not be used as evidence at  
5 the defendant's trial. If the defendant is subsequently convicted of an offense  
6 involving a sexual act, the court may consider the offender's offer for testing  
7 as a mitigating factor.

8 (g) Upon request of the victim at any time after the commission of a crime  
9 involving a sexual act under subsection (b) of this section, the State shall  
10 provide any of the following services to the victim:

- 11 (1) counseling regarding human immunodeficiency virus (HIV);  
12 (2) testing, which shall remain confidential unless otherwise provided  
13 by law, for HIV and other sexually transmitted diseases, including gonorrhea,  
14 herpes, chlamydia, and syphilis;  
15 (3) counseling by a medically trained professional on the accuracy of  
16 the testing, and the risk of transmitting HIV and other sexually transmitted  
17 diseases to the victim as a result of the crime involving a sexual act; and  
18 (4) prophylaxis treatment, crisis counseling, and support services.

19 (h) A victim who so requests shall receive monthly follow-up HIV testing  
20 ~~for six months after the initial test.~~

1 ~~(i) The State shall provide funding for HIV or AIDS, or both, and sexual~~  
2 assault cross-training between sexual assault programs and HIV and AIDS  
3 service organizations.

4 (j) The record of the court proceedings and test results pursuant to this  
5 section shall be sealed.

6 (k) The Court Administrator's Office shall develop and distribute forms to  
7 implement this section in connection with a criminal conviction or  
8 adjudication of delinquency.

9 (l) The Center for Crime Victim Services shall be the primary coordinating  
10 agent for the services to be provided in subsections (g), (h), and (i) of this  
11 section.

12 Sec. 6. 14 V.S.A. § 1203 is amended to read:

13 § 1203. LIMITATIONS ON PRESENTATION OF CLAIMS

14 \* \* \*

15 (c) Nothing in this section affects or prevents:

16 (1) any proceeding to enforce any mortgage, pledge, or other lien upon  
17 property of the estate; ~~or~~

18 (2) to the limits of the insurance protection only, any proceeding to  
19 establish liability of the decedent or the executor or administrator for which he  
20 or she is protected by liability insurance; or

21 ~~(3) the enforcement of any tax liability.~~



1 ~~Sec. 7-15 V.S.A. § 663 is amended to read:~~

2 § 663. SUPPORT ORDERS; REQUIRED CONTENTS

3 \* \* \*

4 (c) Every order for child support made or modified under this chapter on or  
5 after July 1, 1990, shall:

6 (1) include an order for immediate wage withholding or, if not subject  
7 to immediate wage withholding, include a statement that wage withholding  
8 will take effect under the expedited procedure set forth in section 782 of this  
9 title;

10 (2) require payments to be made to the Registry in the Office of Child  
11 Support unless subject to an exception under 33 V.S.A. § 4103;

12 (3) require that every party to the order must notify the Registry in  
13 writing of their current mailing address and current residence address and of  
14 any change in either address within seven business days of the change, until all  
15 obligations to pay support or support arrearages or to provide for visitation are  
16 satisfied;

17 (4) include in bold letters notification of remedies available under  
18 section 798 of this title; and

19 (5) include in bold letters notification that the parent may seek a  
20 modification of his or her support obligation if there has been a showing of a  
21 real, substantial and unanticipated change of circumstances.

22 ~~\*\*\*\*\*~~

1 ~~Sec. 8. SUNSET REPEAL~~

2 ~~2017 Acts and Resolves No. 61, Sec. 7 (July 1, 2020 sunset of changes to~~  
3 ~~Court Diversion Program) is repealed.~~

4 Sec. 9. 2017 Acts and Resolves No. 60, Sec. 3, as amended by 2017 (Adj.  
5 Sess.) Acts and Resolves No. 203, Sec. 1, is amended to read:

6 Sec. 3. REPEAL

7 On July 1, 2021, ~~15 V.S.A. § 752(b)(8)~~ 15 V.S.A. § 752(b)(9) (spousal  
8 support and maintenance guidelines) is repealed.

9 Sec. 10. EFFECTIVE DATE

10 ~~This act shall take effect on July 1, 2020.~~

*Sec. 1. 3 V.S.A. § 163 is amended to read:*

*§ 163. JUVENILE COURT DIVERSION PROJECT*

*\* \* \**

*(i) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Awareness Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Awareness Safety Program.*

*\* \* \**

*Sec. 2. 3 V.S.A. § 164 is amended to read:*

*§ 164. ADULT COURT DIVERSION PROGRAM*

*\* \* \**

*(l) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Awareness Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in*

*effect unless the person fails to register with or complete the Youth Substance Abuse Awareness Safety Program.*

*\* \* \**

*Sec. 3. 18 V.S.A. § 4230a is amended to read:*

*§ 4230A. MARIJUANA CANNABIS POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER*

*\* \* \**

*(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation, which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Awareness Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Awareness Safety Program as required by section 4230b of this title.*

*\* \* \**

*Sec. 4. 18 V.S.A. § 4230f is amended to read:*

*§ 4230F. DISPENSING MARIJUANA CANNABIS TO A PERSON UNDER 21 YEARS OF AGE; CRIMINAL OFFENSE*

*\* \* \**

*(e)(1) Subsections (a)–(d) of this section shall not apply to a person under 21 years of age who dispenses marijuana cannabis to a person under 21 years of age or who knowingly enables the consumption of marijuana cannabis by a person under 21 years of age.*

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

*\* \* \**

*Sec. 5. 7 V.S.A. § 656 is amended to read:*

*§ 656. PERSON 16 YEARS OF AGE OR OLDER AND UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; CIVIL VIOLATION.*

*(a)(1) Prohibited conduct. A person 16 years of age or older and under 21 years of age shall not:*

*(A) Falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages, spirits, or fortified wines from any licensee, State liquor agency, or other person or persons.*

*(B) Possess malt or vinous beverages, spirits, or fortified wines for the purpose of consumption by himself or herself or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor.*

*(C) Consume malt or vinous beverages, spirits, or fortified wines. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages, spirits, or fortified wines or in a jurisdiction where the indicators of consumption are observed.*

*(2) Offense. A person ~~under 21 years of age~~ who knowingly violates subdivision (1) of this subsection commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance ~~Abuse~~ Awareness Safety Program. A person who fails to complete the program successfully shall be subject to:*

*(A) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and*

*(B) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.*

*(b) Issuance of notice of violation. A law enforcement officer shall issue a person ~~under 21 years of age~~ who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:*

*\* \* \**

*Sec. 6. 18 V.S.A. § 4230b is amended to read:*

*§ 4230b. ~~MARIJUANA~~ CANNABIS POSSESSION BY A PERSON 16 YEARS OF AGE OR OLDER AND UNDER 21 YEARS OF AGE;  
CIVIL VIOLATION*

*(a) Offense. A person 16 years of age or older and under 21 years of age who knowingly and unlawfully possesses one ounce or less of ~~marijuana~~ cannabis or five grams or less of hashish or two mature ~~marijuana~~ cannabis plants or fewer or four immature ~~marijuana~~ cannabis plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:*

*(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and*

*(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.*

*(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person ~~under 21 years of age~~ who violates this section with a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:*

*\* \* \**

*(d) Registration in Youth Substance ~~Abuse~~ Awareness Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance ~~Abuse~~ Awareness Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.*

*\* \* \**

*(f)(1) Diversion Program Requirements. Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance ~~Abuse~~ Awareness Safety Program. Pursuant to the Youth Substance ~~Abuse~~ Awareness Safety Program, the Diversion Program shall impose conditions on the person. The conditions*

*imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.*

\* \* \*

*Sec. 7. 18 V.S.A. § 4230j is added to read:*

*§ 4230j. CANNABIS POSSESSION BY A PERSON UNDER 16 YEARS  
OF AGE; DELINQUENCY*

*A person under 16 years of age who engages in conduct in violation of subdivision 4230b of this title commits a delinquent act and shall be subject to 33 V.S.A. chapter 52. The person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Program would not serve the ends of justice.*

*Sec. 8. 23 V.S.A. § 203 is amended to read:*

*§ 203. COUNTERFEITING, FRAUD, AND MISUSE; PENALTY*

*(a) A person shall not:*

\* \* \*

*(2) display or cause or permit to be displayed, or have in his or her possession, any fictitious or fraudulently altered operator license, learner's permit, nondriver identification card, inspection sticker, or registration certificate, or display for any fraudulent purpose an expired or counterfeit insurance identification card or similar document;*

\* \* \*

*(b)(1) A Except as provided in subdivision (2) of this subsection, a violation of subsection (a) of this section shall be a traffic violation for which there shall be a penalty of not more than \$1,000.00. If a person is found to have committed the violation, the person's privilege to operate motor vehicles shall be suspended for 60 days.*

*(2) If a person may be charged with a violation of subdivision (a)(2) of this section or with a violation of 7 V.S.A. § 656, the person shall be charged with a violation of 7 V.S.A. § 656 and not with a violation of this section.*

*Sec. 9. 4 V.S.A. § 1105 is amended to read:*

*§ 1105. ANSWER TO COMPLAINT; DEFAULT*

*(a) A violation shall be charged upon a summons and complaint form approved and distributed by the Court Administrator. The complaint shall be signed by the issuing officer or by the State's Attorney. The original shall be filed with the Judicial Bureau; a copy shall be retained by the issuing officer or State's Attorney and two copies shall be given to the defendant. The Judicial Bureau may, consistent with rules adopted by the Supreme Court pursuant to 12 V.S.A. § 1, accept electronic signatures on any document, including the signatures of issuing officers, State's Attorneys, and notaries public. The complaint shall include a statement of rights, instructions, notice that a defendant may ~~admit, not contest, or deny a violation~~ request a hearing or accept the penalties without a hearing, notice of the fee for failure to answer within ~~20~~ 21 days, and other notices as the Court Administrator deems appropriate. The Court Administrator, in consultation with appropriate law enforcement agencies, may approve a single form for charging all violations, or may approve two or more forms as necessary to administer the operations of the Judicial Bureau.*

*(b) A person who is charged with a violation shall have ~~20~~ 21 days from the date the complaint is issued to ~~admit or deny the allegations or to state that he or she does not contest the allegations in the complaint~~ request a hearing or to state that he or she will accept the penalties without a hearing. The Judicial Bureau shall assess against a defendant a fee of \$20.00 for failure to answer a complaint within the time allowed. The fee shall be assessed in the default judgment and deposited in the Court Technology Special Fund established pursuant to section 27 of this title.*

*(c) A person who ~~admits or does not contest the allegations~~ accepts the penalties may so indicate and sign the complaint. The Bureau shall accept the admission or statement that the allegations are not contested and accept payment of the waiver penalty.*

*(d) If the person sends in the amount of the waiver penalty without signing the complaint, the Bureau shall accept the payment indicating that payment was made and that the allegations were not contested.*

*(e) A person who denies the allegations or who wishes to have a hearing on the complaint for any other reason may so indicate and sign the complaint. Upon receipt, the Bureau shall schedule a hearing.*

\* \* \*

*Sec. 10. 12 V.S.A. § 2903(d) is amended to read:*

*(d) If a judgment lien is not satisfied within 30 days of recording, it may be foreclosed and redeemed as provided in this title and V.R.C.P. 80.1. Unless the court finds that as of the date of foreclosure the amount of the outstanding debt exceeds the value of the real property being foreclosed, ~~section 4531~~ chapter 172 of this title shall apply to foreclosure of a judgment lien.*

*Sec. 11. 12 V.S.A. § 5812 is amended to read:*

*§ 5812. OATH TO BE ADMINISTERED TO ATTORNEYS*

*You solemnly swear that you will do no falsehood, nor consent that any be done in court, and if you know of any, you will give knowledge thereof to the judges of the court or some of them, that it may be reformed; that you will not wittingly, willingly, or knowingly promote, sue, or procure to be sued, any false or unlawful suit, or give aid or consent to the same; that you will delay no ~~man~~ person for lucre or malice, but will act in the office of attorney within the court, according to your best learning and discretion, with all good fidelity as well to the court as to your client. So help you God.*

*Sec. 12. 13 V.S.A. § 1029 is amended to read:*

*§ 1029. ALCOHOLISM, LIMITATIONS, EXCEPTIONS*

*(a) No political subdivision of the State may adopt or enforce a law or rule having the force of law that includes being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty. No political subdivision may interpret or apply any law of general application to circumvent this provision.*

*(b) Nothing in this section affects any law or rule against operating a motor vehicle or other machinery under the influence of alcohol or possession or use of alcoholic beverages at stated times and places or by a particular class of persons.*

*(c) This section does not make intoxication or incapacitation as defined in ~~18 V.S.A. § 9142~~ 18 V.S.A. § 4802 an excuse or defense for any criminal act. Nothing contained herein shall change current law relative to insanity as a defense for any criminal act.*

*(d) This section does not relieve any person from civil liability for any injury to persons or property caused by that person while intoxicated or incapacitated.*



*Sec. 13. 13 V.S.A. § 3256 is amended to read:*

*§ 3256. TESTING FOR INFECTIOUS DISEASES*

*(a)(1)(A) The victim of an offense involving a sexual act may obtain an order from the Criminal or Family Division of the Superior Court in which the offender was convicted of the offense, or was adjudicated delinquent, requiring that the offender be tested for the presence of the etiologic agent for acquired immune deficiency syndrome (AIDS) and other sexually-transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis.*

*(B) The victim of an offense involving a sexual act may, if a judicial officer finds there is probable cause to believe the offender committed the offense, obtain an order from the Criminal or Family Division of the Superior Court in which the offender was charged with the offense requiring that the offender be tested for the presence of immunodeficiency virus (HIV) within 48 hours after the offender was charged.*

*(2) If requested by the victim, the State's Attorney shall petition the court on behalf of the victim for an order under this section. For the purposes of this section, "offender" includes a juvenile adjudicated a delinquent.*

*(b) ~~For purposes of~~ As used in this section, "sexual act" means a criminal offense:*

*(1) where the underlying conduct of the offender constitutes a sexual act as defined in section 3251 of this title; and*

*(2) that creates a risk of transmission of the etiologic agent for AIDS to the victim as determined by the federal Centers for Disease Control and Prevention.*

*(c) If the court determines pursuant to subdivision (a)(1)(A) of this section that the offender was convicted or adjudicated of a crime involving a sexual act with the victim, or that pursuant to subdivision (a)(1)(B) of this section that the offender was charged with a crime involving a sexual act with the victim and there is probable cause to believe the offender committed the offense, the court shall order the test to be administered by the Department of Health in accordance with applicable law. If appropriate under the circumstances, the court may include in its order a requirement for follow-up testing of the offender. An order for follow-up testing shall be terminated if the offender's conviction is overturned. A sample taken pursuant to this section shall be used solely for purposes of this section. All costs of testing the offender shall, if not otherwise funded, be paid by the Department of Public Safety.*

*(d) The results of the offender's test shall be disclosed only to the offender and the victim.*

*(e) If an offender who is subject to an order pursuant to subsection (c) of this section refuses to comply with the order, the victim, or State's Attorney on behalf of the victim, may seek a civil contempt order pursuant to 12 V.S.A. chapter 5.*

*(f) After arraignment, a defendant who is charged with an offense involving a sexual act may offer to be tested for the presence of the etiologic agent for acquired immune deficiency syndrome (AIDS) and other sexually transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis. Such testing shall follow the same procedures set forth for testing an offender who is subject to an order pursuant to subsection (c) of this section. The defendant's offer to be tested after arraignment shall not be used as evidence at the defendant's trial. If the defendant is subsequently convicted of an offense involving a sexual act, the court may consider the offender's offer for testing as a mitigating factor.*

*(g) Upon request of the victim at any time after the commission of a crime involving a sexual act under subsection (b) of this section, the State shall provide any of the following services to the victim:*

*(1) counseling regarding human immunodeficiency virus (HIV);*

*(2) testing, which shall remain confidential unless otherwise provided by law, for HIV and other sexually transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis;*

*(3) counseling by a medically trained professional on the accuracy of the testing, and the risk of transmitting HIV and other sexually transmitted diseases to the victim as a result of the crime involving a sexual act; and*

*(4) prophylaxis treatment, crisis counseling, and support services.*

*(h) A victim who so requests shall receive monthly follow-up HIV testing for six months after the initial test.*

*(i) The State shall provide funding for HIV or AIDS, or both, and sexual assault cross-training between sexual assault programs and HIV and AIDS service organizations.*

*(j) The record of the court proceedings and test results pursuant to this section shall be sealed.*

*(k) The Court Administrator's Office shall develop and distribute forms to implement this section in connection with a criminal conviction or adjudication of delinquency.*

*(l) The Center for Crime Victim Services shall be the primary coordinating agent for the services to be provided in subsections (g), (h), and (i) of this section.*

*Sec. 14. 13 V.S.A. § 7602 is amended to read:*

*§ 7602. EXPUNGEMENT AND SEALING OF RECORD,  
POSTCONVICTION; PROCEDURE*

*\* \* \**

*(b)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:*

*\* \* \**

*(C) Any restitution and surcharges ordered by the court ~~has~~ have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.*

*\* \* \**

*(c)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:*

*\* \* \**

*(D) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.*

*\* \* \**

*(d) For petitions filed pursuant to subdivision (a)(1)(B) of this section, unless the court finds that expungement would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:*

*\* \* \**

*(2) Any restitution and surcharges ordered by the court ~~has~~ have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.*

*\* \* \**

*Sec. 15. 13 V.S.A. § 7609 is amended to read:*

*§ 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN  
INDIVIDUAL 18–21 YEARS OF AGE*

*(a) Procedure. Except as provided in subsection (b) of this section, the record of the criminal proceedings for an individual who was 18–21 years of age at the time the individual committed a qualifying crime shall be expunged within 30 days after the date on which the individual successfully completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent a finding of good cause by the court. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. A copy of the order shall be sent to each agency, department, or official named in the order. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such individual. Notwithstanding this subsection, the record shall not be expunged until restitution ~~has~~ and surcharges have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.*

*\* \* \**

*Sec. 16. 14 V.S.A. § 107 is amended to read:*

*§ 107. ALLOWANCE OF WILL; CUSTODY OF PROPERTY*

*(a) If consents are filed by all the heirs at law and surviving spouse, a will may be allowed without hearing. If consents are not obtained, the court shall schedule a hearing and notice shall be given as provided by the Rules of Probate Procedure.*

*(b) Objections to allowance of the will must be filed in writing not less than seven days prior to the hearing. In the event that no timely objections are filed, ~~the will may be allowed without hearing if it meets criteria set out in section 108 of this title the court may:~~*

*(1) allow the will on the testimony of only one of the subscribing witnesses if the witness testifies that the will was executed as provided in chapter 1 of this title; or*

*(2) allow the will without hearing if it meets criteria set out in section 108 of this title.*

*\* \* \**

*Sec. 17. 14 V.S.A. § 1203 is amended to read:*

*§ 1203. LIMITATIONS ON PRESENTATION OF CLAIMS*

*\* \* \**

*(c) Nothing in this section affects or prevents:*

*(1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate; ~~or~~*

*(2) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the executor or administrator for which he or she is protected by liability insurance; or*

*(3) the enforcement of any tax liability.*

*Sec. 18. 14 V.S.A. § 2643 is amended to read:*

*§ 2643. RELEASE BY COURT AND PARENT ON BEHALF OF MINOR*

*(a) The Superior judge of the Superior Court within and for the county where the minor resides, on behalf of a minor, must approve of and consent to a release to be executed by a parent in the settlement of any claim that does not exceed the sum of ~~\$1,500.00~~ \$10,000.00. A release so furnished shall be binding on the minor and both parents, their heirs, executors, administrators, or assigns, respectively.*

*(b) Any claim settled for a sum in excess of ~~\$1,500.00~~ \$10,000.00 shall require the approval of a court-appointed guardian.*

*Sec. 19. 15 V.S.A. § 663 is amended to read:*

*§ 663. SUPPORT ORDERS; REQUIRED CONTENTS*

*\* \* \**

*(c) Every order for child support made or modified under this chapter on or after July 1, 1990, shall:*

*(1) include an order for immediate wage withholding or, if not subject to immediate wage withholding, include a statement that wage withholding will take effect under the expedited procedure set forth in section 782 of this title;*

*(2) require payments to be made to the Registry in the Office of Child Support unless subject to an exception under 33 V.S.A. § 4103;*

*(3) require that every party to the order must notify the Registry in writing of their current mailing address and current residence address and of any change in either address within seven business days of the change, until all obligations to pay support or support arrearages or to provide for visitation are satisfied;*

(4) include in bold letters notification of remedies available under section 798 of this title; and

(5) include in bold letters notification that the parent may seek a modification of his or her support obligation if there has been a showing of a real, substantial, and unanticipated change of circumstances.

\* \* \*

Sec. 20. 15 V.S.A. § 664 is amended to read:

§ 664. DEFINITIONS

As used in this subchapter:

(1) “Parental rights and responsibilities” means the rights and responsibilities related to a child’s physical living arrangements, ~~parent-child contact,~~ education, medical and dental care, religion, travel, and any other matter involving a child’s welfare and upbringing.

\* \* \*

Sec. 21. 18 V.S.A. § 7510 is amended to read:

§ 7510. PRELIMINARY HEARING

(a) Within five days after a person is admitted to a designated hospital for emergency examination, he or she may request the ~~Criminal Division of the Superior Court~~ to conduct a preliminary hearing to determine whether there is probable cause to believe that he or she was a person in need of treatment at the time of his or her admission.

\* \* \*

~~Sec. 22. 24 V.S.A. § 1981 is amended to read:~~

~~§ 1981. ENFORCEMENT OF ORDER FROM JUDICIAL BUREAU~~

~~(a) Upon the filing of the complaint and entry of a judgment after admission, hearing or entry of default by the hearing officer, subject to any appeal pursuant to 4 V.S.A. § 1107, the person found in violation shall have up to 30 days to pay the penalty to the Judicial Bureau. Upon the expiration of the period to pay the penalty, the person found in violation shall be assessed a surcharge of \$10.00 for the benefit of the municipality. All the civil remedies for collection of judgments shall be available to enforce the final judgment of the Judicial Bureau.~~

\* \* \*

*Sec. ~~22~~ 22. 32 V.S.A. § 1434 is amended to read:*

*§ 1434. PROBATE CASES*

*(a) The following entry fees shall be paid to the Probate Division of the Superior Court for the benefit of the State, except for subdivisions (18) and (19) of this subsection, which shall be for the benefit of the county in which the fee was collected:*

*\* \* \**

*(28) Petitions for minor settlement pursuant to 14 V.S.A. § 2643—\$90.00  
[Repealed.]*

*\* \* \**

*Sec. ~~23~~ 23. 33 V.S.A. § 5117 is amended to read:*

*§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS*

*\* \* \**

*(b)(1) Notwithstanding the foregoing, inspection of such records and files by the following is not prohibited:*

*\* \* \**

*(D) court personnel, the State's Attorney or other prosecutor authorized to prosecute criminal or juvenile cases under State law, the child's guardian ad litem, the attorneys for the parties, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the child;*

*(E) the child who is the subject of the proceeding, the child's parents, guardian, and custodian, ~~and guardian ad litem~~ may inspect such records and files upon approval of the Family Court judge;*

*\* \* \**

*Sec. ~~24~~ 24. 33 V.S.A. § 5119 is amended to read:*

*§ 5119. SEALING OF RECORDS*

*\* \* \**

*(m) Notwithstanding the provisions of this section, a criminal record may not be sealed if restitution and surcharges are owed, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to 13 V.S.A. § 7282.*

*Sec. ~~26~~ 25. SUNSET REPEAL*

*2017 Acts and Resolves No. 61, Sec. 7 (July 1, 2020 sunset of changes to Court Diversion Program) is repealed.*

*Sec. ~~27~~ 26. REPEAL*

*12 V.S.A. chapter 215, subchapter 1 (voluntary arbitration for medical malpractice cases) is repealed.*

*Sec. ~~28~~ 27. SUNSET REPEAL*

*2017 Acts and Resolves No. 54, Sec. 6a (July 1, 2020 repeal of 3 V.S.A. § 168, Racial Disparities in Criminal and Juvenile Justice System Advisory Panel) is repealed.*

*Sec. ~~29~~ 28. PERSONS WITH SUSPENDED DRIVER'S LICENSES;  
AMNESTY PROGRAM*

*(a) There is established an Amnesty Program to permit the Judicial Bureau and the Department of Motor Vehicles to waive all traffic tickets, fees, and surcharges associated with motor vehicle operators whose licenses have been suspended for noncriminal reasons if the suspension has lasted for one year or longer. The Amnesty Program shall comply with the guidelines set forth in this section.*

*(b) On or before September 1, 2020, the Department of Motor Vehicles shall provide to the Office of the Attorney General a list of persons whose operator's licenses have been suspended for noncriminal reasons for one year or longer. On or before September 30, 2020, the Office of the Attorney General shall submit the entire list to the Judicial Bureau and file a single motion requesting that the traffic tickets, Judicial Bureau fees, and surcharges for all persons on the list be waived.*

*(c)(1) Upon filing of the motion from the Attorney' General's Office required by subsection (b) of this section, the Judicial Bureau shall waive the tickets, fees, and surcharges identified in the motion.*

*(2) The Judicial Bureau shall provide notice of its action under subdivision (1) of this subsection to the Department of Motor Vehicles.*

*(d) After receiving notice from the Judicial Bureau pursuant to subdivision (c)(2) of this section, the Department of Motor Vehicles shall:*

*(1) waive any fees, including those associated with reinstatement, for all persons included on the list submitted to the Judicial Bureau pursuant to subsection (b) or this section;*



(2) reinstate the operator's licenses of each person on the list, unless the person is otherwise ineligible for reinstatement; and

(3) notify persons that their licenses have been reinstated, or that their licenses are ineligible for reinstatement and the reason for ineligibility.

**Sec. ~~30~~ 29. CONFORMING REVISIONS; "MARIJUANA" AND  
"CANNABIS"**

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace "marijuana" with "cannabis" throughout the statutes as needed for consistency with this act, provided the revisions have no other effect on the meaning of the affected statutes.

**Sec. ~~34~~ 30. 4 V.S.A. § 33 is amended to read:**

**§ 33. JURISDICTION; FAMILY DIVISION**

*(a) Notwithstanding any other provision of law to the contrary, the Family Division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:*

\* \* \*

(18) Concurrent with the Probate Division, special immigration judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11) issued pursuant to 14 V.S.A. chapter III, subchapter 14.

\* \* \*

**Sec. ~~32~~ 31. 4 V.S.A. § 35 is amended to read:**

**§ 35. JURISDICTION; PROBATE DIVISION**

*The Probate Division shall have jurisdiction of:*

\* \* \*

*(25) grandparent visitation proceedings under 15 V.S.A. chapter 18; and*

*(26) other matters as provided by law; and*

(27) concurrent with the Family Division, special immigration judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11) issued pursuant to 14 V.S.A. chapter III, subchapter 14.

*Sec. ~~32~~ 32. 14 V.S.A. chapter 111, subchapter 14 is added to read:*

*Subchapter 14. Special Immigration Status*

*§ 3098. SPECIAL IMMIGRATION JUVENILE STATUS; JURISDICTION  
AND FINDINGS*

*(a) Jurisdiction and Findings. The court has jurisdiction under Vermont law to make judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11). The court is authorized to make the findings necessary to enable a child to petition the U.S. Citizenship and Immigration Service for classification as a special immigrant juvenile pursuant to 8 U.S.C. Sec. 1101(a)(27)(J).*

*(b)(1) If an order is requested from the court making the necessary findings regarding special immigrant juvenile status as described in subsection (a) of this section, the court shall issue an order if there is evidence to support those findings, which may include a declaration by the child who is the subject of the petition. The order issued by the court shall include all of the following findings:*

*(A) The child was either of the following:*

*(i) Declared a dependent of the court.*

*(ii) Legally committed to or placed under the custody of a State agency or department or an individual or entity appointed by the court. The court shall indicate the date on which the dependency, commitment, or custody was ordered.*

*(B) That reunification of the child with one or both of the child's parents was determined not to be viable because of abuse, neglect, abandonment, or a similar basis pursuant to Vermont law. The court shall indicate the date on which reunification was determined not to be viable.*

*(C) That it is not in the best interests of the child to be returned to the child's or his or her parent's previous country of nationality or country of last habitual residence.*

*(2) If requested by a party, the court may make additional findings that are supported by evidence.*

*(c) In any judicial proceedings in response to a request that the court make the findings necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status that is not otherwise protected by State laws shall remain confidential. This information shall also be exempt from public inspection and copying under the*

Public Records Act and shall be kept confidential, except that the information shall be available for inspection by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

(d) As used in this section, "court" means the Probate Division and the Family Division of the Superior Court.

Sec. ~~34~~ 33. EFFECTIVE DATE

This act shall take effect on July 1, 2020.