

1 S.120

2 Introduced by Senators Vyhovsky, Gulick and White

3 Referred to Committee on

4 Date:

5 Subject: Regulated drugs; possessing and dispensing a benchmark personal use
6 supply; special funds for substance use, harm reduction, and support

7 Statement of purpose of bill as introduced: This bill proposes to establish the
8 Community Care, Health, and Safety Special Fund to provide grants for the
9 establishment and operation of community-based services intended to reduce
10 the harms of drug use and meet the needs of persons suffering from substance
11 use disorder; designate 40 percent of the cannabis excise tax and a portion of
12 the monies from the Opioid Abatement Special Fund for the Community Care,
13 Health, and Safety Special Fund; eliminate criminal penalties for possessing
14 and dispensing a personal use supply of drugs; require that a person found to
15 be possessing or dispensing an amount of a personal-use quantity of a
16 regulated drug be provided information and access to available services and
17 authorize the provision of monetary-equivalent incentives for participation in a
18 needs assessment; and establish the Drug Use Health and Safety Advisory
19 Board for the purpose of determining the benchmark personal use supply for
20 regulated drugs with a goal of preventing and reducing the criminalization of

1 personal drug use and to distribute grants from the Community Care, Health,
2 and Safety Special Fund.

3 An act relating to funding support services for persons who use drugs and
4 eliminating misdemeanor criminal penalties for possessing or dispensing a
5 personal use drug supply

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

7 Sec. 1. FINDINGS

8 The General Assembly finds that:

9 (1) Fatal and nonfatal drug overdoses in Vermont are an urgent public
10 health crisis, with rates of overdose deaths rising sharply in recent years. Drug
11 overdose reportedly killed 264 Vermonters in 2022 and drug toxicity deaths
12 have increased by over 500 percent since 2010.

13 (2) Nonfatal opioid overdose emergency department visits have also
14 been increasing. From 2018 to 2021, 1,631 individuals visited an emergency
15 department for an opioid overdose.

16 (3) Research has consistently shown that public health strategies are
17 effective at reducing overdose deaths, reducing the transmission of infectious
18 diseases, and improving health outcomes for individuals who use drugs.

19 (4) Investments in criminal justice approaches have proven ineffective
20 in reducing overdose. Despite more than 10,000 arrests for drug possession

1 offenses since 2010, fatal drug overdoses have continued to rise during this
2 period.

3 (5) The medical and public understanding that addiction is a chronic
4 brain disease has increased in recent years, yet Vermont's laws have continued
5 to reflect a punitive criminal justice model that has been ineffective in
6 improving public health and has itself caused extensive harm.

7 (6) The criminalization of drug use has profoundly negative impacts on
8 individuals, families, and communities. The stigma of a criminal arrest or
9 conviction often results in detrimental physical, psychological, and economic
10 impacts on the lives of those arrested. Involvement in the criminal legal
11 system can interfere with employment, housing, educational opportunities, and
12 professional licensing and lead to burdensome debt from fines. According to a
13 2020 report by the Brennan Center for Justice, individuals convicted of a
14 misdemeanor have their annual earnings reduced by an average of 16 percent.

15 (7) Studies have also repeatedly found that periods of incarceration
16 substantially increase the risk of fatal overdose. Within the first two weeks of
17 release from incarceration, an individual is substantially more likely to die
18 from a fatal overdose than a person who was not detained.

19 (8) Criminalizing drug use and possession reduces the amount of
20 resources available for harm reduction and treatment services, deters
21 individuals from accessing available services due to fear of arrest, and

1 compounds the social barriers and traumas often contributing to substance use
2 disorder. Arrests and prosecutions can further traumatize individuals who
3 were previously experiencing pain or suffering from prior traumatic events or
4 circumstances.

5 (9) Enforcement of the drug laws in Vermont, as well as nationally, falls
6 disproportionately on persons of color despite similar rates in usage and sale of
7 drugs. Prior to Vermont's legalization of cannabis in 2018, Black persons
8 were six times more likely to be arrested for cannabis possession than White
9 persons. A 2021 study conducted by the Council of State Governments found
10 that between 2014 and 2019, Black persons in Vermont were 14 times more
11 likely than White persons to be defendants in a felony drug case and
12 18 percentage points more likely than White persons to be sentenced to
13 incarceration for a felony drug offense.

14 (10) A health-based approach to drugs, prioritizing the expansion of
15 harm reduction services and on-demand access to evidence-based treatment,
16 rather than the traditional criminal justice model, has proven to be more
17 effective at preventing opioid deaths and drug-related injuries, reducing the
18 spread of HIV and Hepatitis C and improving health outcomes for persons who
19 use drugs. In particular, harm reduction interventions such as drug-checking
20 services and overdose prevention centers have been implemented throughout
21 the world with demonstrated success in saving lives, providing greater stability

1 and facilitating access to health care and services for participants, while also
2 significantly benefitting surrounding communities.

3 (11) Harm reduction services, including overdose prevention centers and
4 drug-checking programs, have been shown to be highly effective in reducing
5 the risk that a drug overdose will become fatal and in improving health
6 outcomes for participants.

7 (12) Throughout the last decade in Vermont, the approach to drugs has
8 gradually shifted toward policies focused on prevention, treatment, and harm
9 reduction rather than punishment. In recent years, the General Assembly has
10 enacted legislation decriminalizing possession of the opiate disorder treatment
11 drug buprenorphine, granting immunity from prosecution for possession of
12 drugs for a person who seeks assistance for themselves or another who is
13 experiencing an overdose, supporting the establishment of drug-checking
14 services, authorizing and appropriating funds for overdose prevention centers,
15 providing widespread access to naloxone to treat opiate overdoses in an
16 emergency, and supporting other harm reduction interventions such as syringe
17 service programs.

18 (13) Eliminating criminal penalties for possessing personal use amounts
19 of regulated drugs would continue this progress in shifting toward a fully
20 public-health approach to drug use and addiction by helping eliminate barriers
21 for those who need supportive services. The elimination of criminal penalties

1 removes the fear of arrest, which drives many individuals to hide their
2 substance use, consume drugs alone in dangerous circumstances, and avoid
3 seeking help from health care systems and harm reduction providers. Such a
4 strategic shift will also allow Vermont to redirect money and resources from
5 prosecution and incarceration toward prevention, harm reduction strategies,
6 and addiction services, affording better outcomes for all Vermonters.

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

8 § 4201. DEFINITIONS

9 As used in this chapter:

10 * * *

11 (6) “Depressant or stimulant drug” means:

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

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

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

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

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

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

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

12 (7) “Dispense” includes distribute, leave with, give away, dispose of, or
13 deliver.

14 * * *

15 (10) “Hallucinogenic drugs” means stramonium, mescaline or peyote,
16 lysergic acid diethylamide, and psilocybin, and all synthetic equivalents of
17 chemicals contained in resinous extractives of Cannabis sativa, or any salts or
18 derivatives or compounds of any preparations or mixtures thereof, and any
19 other substance that is designated as habit-forming or as having a serious
20 potential for abuse arising out of its effect on the central nervous system or its

1 hallucinogenic effect in the rules adopted by the Department of Health under
2 section 4202 of this title.

3 * * *

4 (16) “Narcotic,” “narcotics,” or “narcotic drugs” means opium, coca
5 leaves, pethidine (isonipecaïne, meperidine), and opiates or their compound,
6 manufacture, salt, alkaloid, or derivative, and every substance neither
7 chemically nor physically distinguishable from them, and preparations
8 containing such drugs or their derivatives, by whatever trade name identified
9 and whether produced directly or indirectly by extraction from substances of
10 vegetable origin, or independently by means of chemical synthesis or by a
11 combination of extraction and chemical synthesis, as the same are so
12 designated in the rules adopted by the Department of Health under section
13 4202 of this title.

14 * * *

15 (29) “Regulated drug” means:

16 (A) a narcotic drug;

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

18 (C) a hallucinogenic drug;

19 (D) Ecstasy;

20 (E) cannabis;

21 (F) methamphetamine; or

1 (G) xylazine.

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

6 * * *

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

10 * * *

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

14 * * *

15 (50) "Benchmark personal use supply" means the quantity of a drug
16 commonly possessed for consumption by an individual for any therapeutic,
17 medicinal, or recreational purpose.

18 Sec. 3. 18 V.S.A. § 4202 is amended to read:

19 § 4202. POWERS AND DUTIES OF THE DEPARTMENT OF HEALTH

20 (a) The Department of Health is authorized and empowered to adopt such
21 rules that in its judgment may be necessary or proper to supplement the

1 provisions of this chapter to effectuate the purposes and intent thereof or to
2 clarify its provisions so as to provide the procedure or details to secure
3 effective and proper enforcement of its provisions.

4 (b) These rules and determinations, when adopted, shall, until modified or
5 rescinded, have the force and effect of law.

6 * * *

7 (e) The Department shall adopt rules reflecting the benchmarks
8 recommended by the Drug Use Health and Safety Advisory Board in
9 accordance with section 4202a of this title.

10 Sec. 4. 18 V.S.A. § 4202a is added to read:

11 § 4202a. DRUG USE HEALTH AND SAFETY ADVISORY BOARD

12 (a) There is hereby created the Drug Use Health and Safety Advisory
13 Board composed of experts in the fields of general and behavioral health care,
14 substance use disorder treatment, harm reduction services, and drug user
15 communities.

16 (b) The primary objectives of the Advisory Board shall be:

17 (1) To determine the benchmark personal use supply for each regulated
18 drug. The benchmarks determined pursuant to this subsection shall be
19 determined with a goal of preventing and reducing the criminalization of
20 personal drug possession and use.

1 (2) To distribute and provide oversight of grant funding from the
2 Community Care, Health, and Safety Special Fund.

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

4 (1) two consumer representatives who have lived experience in drug use
5 and consumption practices; two representatives from harm reduction service
6 providers; one expert on substance use disorder treatment and recovery, which
7 may include a medical practitioner providing medication for opioid use
8 disorder; and one academic expert specializing in human behavior, addiction,
9 and drug policy, appointed by the Senate Committee on Committees;

10 (2) two consumer representatives who have lived experience in drug use
11 and consumption practices; two representatives from harm reduction service
12 providers; one expert on substance use disorder treatment and recovery, which
13 may include a medical practitioner providing medication for opioid use
14 disorder; and one academic expert specializing in human behavior, addiction,
15 and drug policy, appointed by the Speaker of the House; and

16 (3) an expert on legal reform appointed by the Center for Justice Reform
17 at Vermont Law and Graduate School.

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

1 (e) On or before January 1, 2026, the Advisory Board shall provide the
2 recommended quantities for benchmark personal use supply for each category
3 of regulated drug listed in subdivision 4201(29) of this title.

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

10 (g) The Department shall initiate rulemaking to adopt benchmark personal
11 use supplies not later than 90 days following the receipt of recommendations
12 from the Advisory Board. The Department shall give full consideration to the
13 recommendations of the Advisory Board and provide detailed explanations for
14 any deviations from the recommendations of the Advisory Board in the
15 proposed rules.

16 Sec. 5. 18 V.S.A. § 4231 is amended to read:

17 § 4231. COCAINE

18 (a) Possession.

19 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
20 subdivision (1), a person knowingly and unlawfully possessing cocaine shall

1 be imprisoned not more than one year or fined not more than \$2,000.00, or
2 both.

3 (B) A person knowingly possessing cocaine in an amount equal to or
4 less than a benchmark personal use supply shall not be subject to a criminal or
5 civil penalty but shall be provided health needs screening information pursuant
6 to section 4240b of this title.

7 (2) A person knowingly and unlawfully possessing cocaine in an
8 amount consisting of 2.5 grams or more of one or more preparations,
9 compounds, mixtures, or substances containing cocaine shall be imprisoned
10 not more than five years or fined not more than \$100,000.00, or both.

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

15 (4) [Repealed.]

16 (b) Selling or dispensing.

17 (1)(A) A Except as otherwise provided in subdivision (B) of this
18 subdivision (1), a person knowingly and unlawfully dispensing cocaine shall
19 be imprisoned not more than three years or fined not more than \$75,000.00, or
20 both.

1 (B) A person knowingly dispensing cocaine in an amount equal to or
 2 less than a benchmark personal use supply shall not be subject to a criminal or
 3 civil penalty but shall be provided health needs screening information pursuant
 4 to section 4240b of this title.

5 (C) A person knowingly and unlawfully selling cocaine shall be
 6 imprisoned not more than five years or fined not more than \$100,000.00, or
 7 both.

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

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

16 * * *

17 Sec. 6. 18 V.S.A. § 4232 is amended to read:

18 § 4232. LSD

19 (a) Possession.

20 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
 21 subdivision (1), a person knowingly and unlawfully possessing lysergic acid

1 diethylamide shall be imprisoned not more than one year or fined not more
2 than \$2,000.00, or both.

3 (B) A person knowingly possessing lysergic acid diethylamide in an
4 amount equal to or less than a benchmark personal use supply shall not be
5 subject to a criminal or civil penalty but shall be provided health needs
6 screening information pursuant to section 4240b of this title.

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

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

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

1 (b) Selling or dispensing.

2 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
3 subdivision (1), a person knowingly and unlawfully dispensing lysergic acid
4 diethylamide shall be imprisoned not more than three years or fined not more
5 than \$25,000.00, or both.

6 (B) A person knowingly dispensing lysergic acid diethylamide in an
7 amount equal to or less than a benchmark personal use supply shall not be
8 subject to a criminal or civil penalty but shall be provided health needs
9 screening information pursuant to section 4240b of this title.

10 (C) A person knowingly and unlawfully selling lysergic acid
11 diethylamide shall be imprisoned not more than five years or fined not more
12 than \$25,000.00, or both.

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

18 (3) A person knowingly and unlawfully selling or dispensing lysergic
19 acid diethylamide in an amount consisting of one gram or more of one or more
20 preparations, compounds, mixtures, or substances containing lysergic acid

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

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

4 § 4233. HEROIN

5 (a) Possession.

6 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
7 subdivision (1), a person knowingly and unlawfully possessing heroin shall be
8 imprisoned not more than one year or fined not more than \$2,000.00, or both.

9 (B) A person knowingly possessing heroin in an amount equal to or
10 less than a benchmark personal use supply shall not be subject to a criminal or
11 civil penalty but shall be provided health needs screening information pursuant
12 to section 4240b of this title.

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

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

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

5 (b) Selling or dispensing.

6 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
7 subdivision (1), a person knowingly and unlawfully dispensing heroin shall be
8 imprisoned not more than three years or fined not more than \$75,000.00, or
9 both.

10 (B) A person knowingly dispensing heroin in an amount equal to or
11 less than a benchmark personal use supply shall not be subject to a criminal or
12 civil penalty but shall be provided health needs screening information pursuant
13 to section 4240b of this title.

14 (C) A person knowingly and unlawfully selling heroin shall be
15 imprisoned not more than five years or fined not more than \$100,000.00, or
16 both.

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

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

5 * * *

6 Sec. 8. 18 V.S.A. § 4233a is amended to read:

7 § 4233a. FENTANYL

8 (a) Selling or dispensing.

9 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
10 subdivision (1), a person knowingly and unlawfully dispensing fentanyl shall
11 be imprisoned not more than three years or fined not more than \$75,000.00, or
12 both. A person knowingly and unlawfully selling fentanyl shall be imprisoned
13 not more than five years or fined not more than \$100,000.00, or both.

14 (B) A person knowingly dispensing fentanyl in an amount equal to or
15 less than a benchmark personal use supply shall not be subject to a criminal or
16 civil penalty but shall be provided health needs screening information pursuant
17 to section 4240b of this title.

18 (2) A person knowingly and unlawfully selling or dispensing fentanyl in
19 an amount consisting of four milligrams or more of one or more preparations,
20 compounds, mixtures, or substances containing fentanyl shall be imprisoned
21 not more than 10 years or fined not more than \$250,000.00, or both.

1 (3) A person knowingly and unlawfully selling or dispensing fentanyl in
 2 an amount consisting of 20 milligrams or more of one or more preparations,
 3 compounds, mixtures, or substances containing fentanyl shall be imprisoned
 4 not more than 20 years or fined not more than \$1,000,000.00, or both.

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

10 * * *

11 Sec. 9. 18 V.S.A. § 4233b is amended to read:

12 § 4233b. XYLAZINE

13 * * *

14 (c)(1) Except as otherwise provided in subdivision (2) of this subsection,
 15 a person knowingly and unlawfully dispensing xylazine shall be imprisoned
 16 not more than three years or fined not more than \$75,000.00, or both. A
 17 person knowingly and unlawfully selling xylazine shall be imprisoned not
 18 more than five years or fined not more than \$100,000.00, or both.

19 (2) A person knowingly dispensing xylazine in an amount equal to or
 20 less than a benchmark personal use supply shall not be subject to a criminal or

1 civil penalty but shall be provided health needs screening information pursuant
2 to section 4240b of this title.

3 * * *

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

5 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

6 (a) Possession.

7 (1)(A) Except as provided by ~~subdivision~~ subdivisions (B) and (C) of
8 this subdivision (1), a person knowingly and unlawfully possessing a
9 depressant, stimulant, or narcotic drug, other than heroin or cocaine, shall be
10 imprisoned not more than one year or fined not more than \$2,000.00, or both.

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

14 (C) A person knowingly possessing a depressant, stimulant, or
15 narcotic drug, other than heroin or cocaine, in an amount equal to or less than a
16 benchmark personal use supply shall not be subject to a criminal or civil
17 penalty but shall be provided health needs screening information pursuant to
18 section 4240b of this title. For buprenorphine, this subdivision (1)(C) shall
19 apply to an amount of more than 224 milligrams but equal to or less than a
20 benchmark personal use supply.

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

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

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

13 (b) Selling or dispensing.

14 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
15 subdivision (1), a person knowingly and unlawfully dispensing a depressant,
16 stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be
17 imprisoned not more than three years or fined not more than \$75,000.00, or
18 both.

19 (B) A person knowingly dispensing a depressant, stimulant, or
20 narcotic drug, other than fentanyl, heroin, or cocaine, in an amount less than a
21 benchmark personal use supply shall not be subject to a criminal or civil

1 penalty but shall be provided health needs screening information pursuant to
2 section 4240b of this title.

3 (2) A person knowingly and unlawfully selling a depressant, stimulant,
4 or narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned
5 not more than five years or fined not more than \$25,000.00, or both.

6 ~~(2)~~(3) A person knowingly and unlawfully selling or dispensing a
7 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
8 consisting of 100 times a benchmark unlawful dosage or its equivalent, shall be
9 imprisoned not more than 10 years or fined not more than \$100,000.00, or
10 both.

11 ~~(3)~~(4) A person knowingly and unlawfully selling or dispensing a
12 depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine,
13 consisting of 1,000 times a benchmark unlawful dosage or its equivalent shall
14 be imprisoned not more than 20 years or fined not more than \$500,000.00, or
15 both.

16 ~~(4)~~(5) As used in this subsection, “knowingly” means:

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

20 (B) the defendant:

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

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

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

8 (1) Except as provided in subdivision (2) of this subsection, a person
9 under 21 years of age who knowingly and unlawfully possesses 224
10 milligrams or less of buprenorphine commits a civil violation and shall be
11 subject to the provisions of section 4230b of this title.

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

15 Sec. 11. 18 V.S.A. § 4234a is amended to read:

16 § 4234a. METHAMPHETAMINE

17 (a) Possession.

18 (1)(A) ~~Except as otherwise provided in subdivision (B) of this~~
19 subdivision (1), a person knowingly and unlawfully possessing
20 methamphetamine shall be imprisoned not more than one year or fined not
21 more than \$2,000.00, or both.

1 (B) A person knowingly possessing methamphetamine in an amount
2 equal to or less than a benchmark personal use supply shall not be subject to a
3 criminal or civil penalty but shall be provided health needs screening
4 information pursuant to section 4240b of this title.

5 (2) A person knowingly and unlawfully possessing methamphetamine in
6 an amount consisting of 2.5 grams or more of one or more preparations,
7 compounds, mixtures, or substances containing methamphetamine shall be
8 imprisoned not more than five years or fined not more than \$100,000.00, or
9 both.

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

15 (b) Selling and dispensing.

16 (1)~~(A)~~ Except as otherwise provided in subdivision (B) of this
17 subdivision (1), a person knowingly and unlawfully dispensing
18 methamphetamine shall be imprisoned not more than three years or fined not
19 more than \$75,000.00, or both.

20 (B) A person knowingly dispensing methamphetamine in an amount
21 equal to or less than a benchmark personal use supply shall not be subject to a

1 criminal or civil penalty but shall be provided health needs screening
2 information pursuant to section 4240b of this title.

3 (C) A person knowingly and unlawfully selling methamphetamine
4 shall be imprisoned not more than five years or fined not more than
5 \$100,000.00, or both.

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

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

16 * * *

17 Sec. 12. 18 V.S.A. § 4234b is amended to read:

18 § 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

19 (a) Possession.

20 (1) No person shall knowingly and unlawfully possess a drug product
21 containing ephedrine base, pseudoephedrine base, or phenylpropanolamine

1 base with the intent to use the product as a precursor to manufacture
2 methamphetamine or another controlled substance.

3 (2) A person who violates this subsection ~~shall~~:

4 (A) if the offense involves possession of an amount equal to or less
5 than a benchmark personal use supply, shall not be subject to a criminal or
6 civil penalty but shall be provided health needs screening information pursuant
7 to section 4240b of this title;

8 (B) if the offense involves possession of less than nine grams of
9 ephedrine base, pseudoephedrine base, or phenylpropanolamine base, shall be
10 imprisoned not more than one year or fined not more than \$2,000.00, or both;
11 or

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

16 * * *

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

18 § 4235. HALLUCINOGENIC DRUGS

19 (a) “Dose” of a hallucinogenic drug means that minimum amount of a
20 hallucinogenic drug, not commonly used for therapeutic purposes, that causes
21 a substantial hallucinogenic effect. The Department of Health shall adopt rules

1 that establish doses for hallucinogenic drugs. The Department may
2 incorporate, where applicable, dosage calculations or schedules, whether
3 described as “dosage equivalencies” or otherwise, established by the federal
4 government.

5 (b) Possession.

6 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
7 subdivision (1), a person knowingly and unlawfully possessing a
8 hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned
9 not more than one year or fined not more than \$2,000.00, or both.

10 (B) A person knowingly possessing a hallucinogenic drug, other than
11 lysergic acid diethylamide, in an amount equal to or less than a benchmark
12 personal use supply shall not be subject to a criminal or civil penalty but shall
13 be provided health needs screening information pursuant to section 4240b of
14 this title.

15 (2) A person knowingly and unlawfully possessing 10 or more doses of
16 a hallucinogenic drug, other than lysergic acid diethylamide, shall be
17 imprisoned not more than five years or fined not more than \$25,000.00, or
18 both.

19 (3) A person knowingly and unlawfully possessing 100 or more doses of
20 a hallucinogenic drug, other than lysergic acid diethylamide, shall be

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

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

7 (c) Selling or dispensing.

8 (1)(A) ~~A~~ Except as otherwise provided in subdivision (B) of this
9 subdivision (1), a person knowingly and unlawfully dispensing a
10 hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned
11 not more than three years or fined not more than \$25,000.00, or both.

12 (B) A person knowingly dispensing a hallucinogenic drug, other than
13 lysergic acid diethylamide, in an amount equal to or less than a benchmark
14 personal use supply shall not be subject to a criminal or civil penalty but shall
15 be provided health needs screening information pursuant to section 4240b of
16 this title.

17 (C) A person knowingly and unlawfully selling a hallucinogenic
18 drug, other than lysergic acid diethylamide, shall be imprisoned not more than
19 five years or fined not more than \$25,000.00, or both.

20 (2) A person knowingly and unlawfully selling or dispensing 10 or more
21 doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be

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

3 (3) A person knowingly and unlawfully selling or dispensing 100 or
4 more doses of a hallucinogenic drug, other than lysergic acid diethylamide,
5 shall be imprisoned not more than 15 years or fined not more than
6 \$500,000.00, or both.

7 Sec. 14. 18 V.S.A. § 4235a is amended to read:

8 § 4235a. ECSTASY

9 (a) Possession.

10 (1)~~(A)~~ Except as otherwise provided in subdivision (B) of this
11 subdivision (1), a person knowingly and unlawfully possessing Ecstasy shall
12 be imprisoned not more than one year or fined not more than \$2,000.00, or
13 both.

14 (B) A person knowingly possessing Ecstasy in an amount equal to or
15 less than a benchmark personal use supply shall not be subject to a criminal or
16 civil penalty but shall be provided health needs screening information pursuant
17 to section 4240b of this title.

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

1 (3) A person knowingly and unlawfully possessing Ecstasy in an
2 amount consisting of 20 grams or more of one or more preparations,
3 compounds, mixtures, or substances containing Ecstasy shall be imprisoned
4 not more than 10 years or fined not more than \$100,000.00, or both.

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

9 (b) Selling or dispensing.

10 (1)~~(A)~~ Except as otherwise provided in subdivision (B) of this
11 subdivision (1), a person knowingly and unlawfully dispensing Ecstasy shall
12 be imprisoned not more than three years or fined not more than \$25,000.00, or
13 both.

14 (B) A person knowingly dispensing Ecstasy in an amount equal to or
15 less than a benchmark personal use supply shall not be subject to a criminal or
16 civil penalty but shall be provided health needs screening information pursuant
17 to section 4240b of this title.

18 (C) A person knowingly and unlawfully selling Ecstasy shall be
19 imprisoned not more than five years or fined not more than \$25,000.00, or
20 both.

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

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

9 Sec. 15. 18 V.S.A. § 4240b is added to read:

10 § 4240b. HEALTH NEEDS SCREENING

11 (a) A person who is in contact with law enforcement or emergency
12 response personnel and determined to be in possession of or dispensing a
13 quantity not greater than the benchmark personal use supply of a regulated
14 drug shall be offered a comprehensive health needs screening from the VT
15 Helplink Alcohol and Drug Support Center and provided contact information
16 for locally available harm reduction service providers. A person who
17 completes the screening shall be eligible to receive a gift card with a retail
18 value of \$50.00.

19 (b) VT Helplink shall develop a standard referral form for screenings. A
20 law enforcement officer shall provide the referral form to any person

1 possessing or dispensing an amount of a regulated drug not greater than the
2 benchmark personal use supply of such drug.

3 (c) Completion or participation in a health screening pursuant to this
4 section shall not be deemed an admission of any kind by the person
5 participating in such screening and shall not be admissible as evidence in any
6 court proceeding.

7 Sec. 16. 18 V.S.A. § 4240c is added to read:

8 § 4240c. SUBSTANCE PREVENTION AND SUPPORT SPECIAL FUNDS

9 (a) Substance Use Prevention Special Fund.

10 (1) Creation. There is established the Substance Use Prevention Special
11 Fund to be administered by the Department of Health in accordance with
12 32 V.S.A. chapter 7, subchapter 5.

13 (2) Purpose. Appropriations from the Substance Use Prevention Special
14 Fund shall only be used to fund substance use prevention programming.

15 (3) Revenue. The Substance Use Prevention Special Fund shall consist
16 of 30 percent of the revenues raised by the cannabis excise tax imposed by
17 32 V.S.A. § 7902, not to exceed \$10,000,000.00 per fiscal year.

18 (b) Community Care, Health, and Safety Special Fund.

19 (1) Creation. There is established the Community Care, Health, and
20 Safety Special Fund to be administered by the Department of Health in
21 accordance with 32 V.S.A. chapter 7, subchapter 5.

1 (2) Purpose. Appropriations from the Community Care, Health, and
2 Safety Special Fund shall only be used to provide grants and funding to
3 organizations and service providers in this State to increase voluntary access to
4 care for individuals with substance use-related health needs, as set forth in this
5 subdivision. Grants from the Community Care, Health, and Safety Special
6 Fund shall be issued by the Department of Health, based on the
7 recommendations of the Drug Use Health and Safety Advisory Board, on an
8 annual basis for the following services and any other related services necessary
9 to meet the needs of all individuals with substance use-related health needs
10 who voluntarily seek services in any county in the State:

11 (A) The establishment and operation of a network of community care
12 resource centers to provide health and harm reduction services. A resource
13 center may be a new facility or an expansion of an existing facility. A resource
14 center shall provide, to the extent possible, all of the following:

15 (i) immediate screening of the acute needs of persons who use
16 drugs and linkage to appropriate services;

17 (ii) health needs screenings, as developed in accordance with
18 section 4240b of this title, that shall be made available in person and through
19 telephonic and electronic means;

20 (iii) individual health needs planning that prioritizes the self-
21 identified needs of the individual and may address the individual's need and

1 desire for substance use disorder treatment, care for co-occurring health
2 conditions, housing, employment and training, child care, and other services;

3 (iv) a drop-in facility that provides a welcoming environment for
4 individuals who may be intoxicated to receive care, nutrition, hydration,
5 hygiene services, and clothing;

6 (v) services and education focusing on reducing the potential harm
7 of drug use, including overdose prevention education, access to naloxone
8 hydrochloride and sterile syringes, stimulant-specific drug education and
9 outreach, and drug checking;

10 (vi) direct connection to short-term accommodations for
11 individuals who are awaiting admission to or coordination of higher levels of
12 care; and

13 (vii) direct handoffs to and coordinated care with other services.

14 (B) Intensive case management for individuals with substance use-
15 related health needs to connect individuals to care as necessary and as desired
16 by the individual.

17 (C) Ongoing peer counseling, support, and recovery services for
18 individuals with substance use-related health needs, as well as peer outreach
19 workers to engage directly with communities that could potentially benefit
20 from services.

1 (D) Services and education focusing on reducing the potential harm
2 of drug use, including overdose prevention education; access to naloxone,
3 hydrochloride, and sterile syringes; stimulant-specific drug education and
4 outreach; drug-checking services; and overdose prevention centers.

5 (E) Low-barrier substance use disorder treatment that does not
6 require abstinence.

7 (F) Medications for substance use disorder, including mobile and
8 remote access to telehealth for consultations and prescribing.

9 (G) Medically managed withdrawal services.

10 (H) Recovery community centers.

11 (I) Non-law-enforcement mobile outreach teams that can engage and
12 provide services for individuals with substance use-related health and mental
13 health needs, including crisis services, administration of needs assessments,
14 and connections with other service providers.

15 (J) Transportation to any necessary services.

16 (K) Programs and services for at-risk youth.

17 (3) Revenue. The Community Care, Health, and Safety Special Fund
18 shall consist of:

19 (A) 40 percent of the revenues raised by the cannabis excise tax
20 imposed by 32 V.S.A. § 7902;

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(12) implementing other evidence-based or evidence-informed programs or strategies that support prevention, harm reduction, treatment, or recovery of opioid use disorder and any co-occurring substance use or mental health disorder; ~~and~~

(13) the transfer of 15 percent of any monies disbursed to the Opioid Abatement Special Fund to the Community Care, Health, and Safety Special Fund as required pursuant to subdivision 4240c(b)(3)(B) of this title; and

(14) the cost of the administrative, technical, and legal assistance provided to the Advisory Committee by the Department of Health.

(c) Priority for expenditures from the Opioid Abatement Special Fund shall be aimed at reducing overdose deaths, including the following:

* * *

(8) expanding syringe service programs, specifically providing comprehensive syringe services programs with more wraparound services, including linkages to opioid use disorder treatment, access to sterile syringes, and linkages to care and treatment of infectious diseases; ~~and~~

(9) facilitating evidence-based or evidence-informed data collection and research analyzing and evaluating the effectiveness of the abatement strategies within Vermont; and

1 ~~(10) expenditures from the Community Care, Health, and Safety Special~~
2 ~~Fund as authorized under subdivision 4240c(b)(2) of this title.~~

3 Sec. 18. 32 V.S.A. § 7909 is amended to read:

4 § 7909. ~~SUBSTANCE MISUSE PREVENTION FUNDING~~

5 ~~(a) Thirty percent of the revenues raised by the cannabis excise tax~~
6 ~~imposed by section 7902 of this title, not to exceed \$10,000,000.00 per fiscal~~
7 ~~year, shall be used to fund substance misuse prevention programming in the~~
8 ~~subsequent fiscal year.~~

9 ~~(b) If any General Fund appropriations for substance misuse prevention~~
10 ~~programming remain unexpended at the end of a fiscal year, that balance shall~~
11 ~~be carried forward and shall only be used for the purpose of funding substance~~
12 ~~misuse prevention programming in the subsequent fiscal year.~~

13 ~~(c) Any appropriation balance carried forward pursuant to subsection (b) of~~
14 ~~this section shall be in addition to revenues allocated for substance misuse~~
15 ~~prevention programming pursuant to subsection (a) of this section. [Repealed.]~~

16 Sec. 19. IMPLEMENTATION

17 (a) The Secretary of Administration shall report to the General Assembly
18 regarding the budgetary impacts that are projected to result from the
19 elimination of criminal penalties for individuals in possession of personal use
20 quantities of regulated drugs in Vermont not later than January 15, 2026. The
21 report shall analyze any budgetary impacts such as reductions in expenditures

1 throughout the criminal justice system and, notwithstanding 2 V.S.A. § 20,
2 shall be updated by the Secretary of Administration as necessary.

3 (b) The 30 percent of the unexpended and unobligated balance of the
4 Cannabis Regulation Fund that is transferred to the General Fund pursuant to
5 7 V.S.A. § 845(d)(1) and 32 V.S.A. § 7909 that is not expended by
6 December 31, 2025 and any other revenue from the cannabis excise tax that is
7 appropriated for substance use prevention programming pursuant to 32 V.S.A.
8 § 7909 that is not expended by December 31, 2025 shall be transferred to the
9 Substance Use Prevention Special Fund not later than April 1, 2026.

10 Sec. 20. EFFECTIVE DATES

11 (a) This section and Secs. 1 (findings), 2 (definitions), 3 (Department of
12 Health), 4 (Drug Use Health and Safety Advisory Board), and 19
13 (implementation) shall take effect on passage.

14 (b) Secs. 5–18 shall take effect on January 1, 2026.