

1 H.150

2 Introduced by Representatives Zuckerman of Burlington, Clarkson of
3 Woodstock, Conquest of Newbury, Davis of Washington, Deen
4 of Westminster, Donovan of Burlington, Edwards of
5 Brattleboro, French of Randolph, Klein of East Montpelier,
6 Lorber of Burlington, Marek of Newfane, Masland of Thetford,
7 Milkey of Brattleboro, Pellett of Chester, Peltz of Woodbury,
8 Spengler of Colchester, Sweaney of Windsor, Weston of
9 Burlington and Zenie of Colchester

10 Referred to Committee on

11 Date:

12 Subject: Regulated drugs; marijuana

13 Statement of purpose: This bill proposes to change the penalties for the
14 possession of small amounts of marijuana. A person who possesses one ounce
15 or less of marijuana would be assessed a civil fine of up to \$100.00, while
16 possession of larger amounts would continue to be criminal offenses subject to
17 imprisonment. Minors who possess one ounce or less of marijuana would be
18 required to complete a drug awareness and community service program run by
19 court diversion. A minor who fails to complete the program would be assessed
20 a civil fine of up to \$300.00 and would lose his or her driver's license for 90
21 days.

1 An act relating to penalties for possession of marijuana

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

3 Sec. 1. SHORT TITLE

4 This act may be known as “An Act Establishing a Sensible State Marijuana
5 Policy.”

6 Sec. 2. 18 V.S.A. § 4230 is amended to read:

7 § 4230. MARIJUANA

8 (a) Possession and cultivation.

9 (1) A person knowingly and unlawfully possessing marijuana in an
10 amount consisting of one or more preparations, compounds, mixtures, or
11 substances of an aggregate weight of more than one ounce containing any
12 marijuana shall be imprisoned not more than six months or fined not more than
13 \$500.00, or both. A person convicted of a second or subsequent offense under
14 this subdivision shall be imprisoned not more than two years or fined not more
15 than \$2,000.00, or both. Upon an adjudication of guilt for a first offense under
16 this subdivision, the court may defer sentencing as provided in section 7041 of
17 Title 13 except that the court may in its discretion defer sentence without the
18 filing of a presentence investigation report and except that sentence may be
19 imposed at any time within two years from and after the date of entry of
20 deferment. The court may prior to sentencing, order that the defendant submit

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

3 (2) A person knowingly and unlawfully possessing marijuana in an
4 amount consisting of one or more preparations, compounds, mixtures or
5 substances, of an aggregate weight of two ounces or more containing any
6 marijuana or knowingly and unlawfully cultivating more than three plants of
7 marijuana shall be imprisoned not more than three years or fined not more than
8 \$10,000.00, or both.

9 (3) A person knowingly and unlawfully possessing marijuana in an
10 amount consisting of one or more preparations, compounds, mixtures or
11 substances, of an aggregate weight of one pound or more containing any
12 marijuana or knowingly and unlawfully cultivating more than ten plants of
13 marijuana shall be imprisoned not more than five years or fined not more than
14 \$100,000.00, or both.

15 (4) A person knowingly and unlawfully possessing marijuana in an
16 amount consisting of one or more preparations, compounds, mixtures or
17 substances, of an aggregate weight of ten pounds or more or knowingly and
18 unlawfully cultivating more than 25 plants of marijuana shall be imprisoned
19 not more than 15 years or fined not more than \$500,000.00, or both.

20 * * *

1 Sec. 3. 18 V.S.A. § 4230a is added to read:

2 § 4230a. MARIJUANA; CIVIL PENALTY

3 (a) A person 18 years of age or older knowingly and unlawfully possessing
4 marijuana in an amount consisting of one or more preparations, compounds,
5 mixtures, or substances of an aggregate weight of one ounce or less containing
6 any marijuana shall be assessed a civil penalty of not more than \$100.00.

7 (b)(1) Except as provided in this section and in section 4230b of this title, a
8 person who possesses one ounce or less of marijuana, or who possesses
9 paraphernalia for marijuana use, shall not be penalized or sanctioned in any
10 manner by the state or any of its political subdivisions, or denied any right or
11 privilege under state law, including:

12 (A) denying the offender student financial aid, unemployment
13 benefits, public housing, or any other form of public financial assistance;

14 (B) denying the offender's right to operate a motor vehicle; or

15 (C) disqualifying an offender from serving as a foster or adoptive
16 parent.

17 (2) A violation of this section shall not result in the creation of a
18 criminal history record of any kind, and no information about the violation
19 shall be maintained in any criminal record or database.

1 (c) Neither this section nor section 4230b of this title shall:

2 (1) exempt any person from arrest or prosecution for being under the
3 influence of marijuana while operating a vehicle of any kind; or

4 (2) be construed to repeal or modify existing laws or policies concerning
5 the operation of vehicles of any kind while under the influence of marijuana.

6 (d) Neither this section nor section 4230b of this title shall be construed to
7 limit the authority of primary and secondary schools to impose noncriminal
8 penalties for the possession of marijuana on school property.

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

12 Sec. 4. 18 V.S.A. § 4230b is added to read:

13 § 4230b. MARIJUANA; POSSESSION BY MINOR; CIVIL VIOLATION

14 (a)(1) A minor shall not knowingly and unlawfully possess marijuana in an
15 amount consisting of one or more preparations, compounds, mixtures, or
16 substances of an aggregate weight of one ounce or less containing any
17 marijuana.

18 (2) Except as otherwise provided in this section, a person who violates
19 subdivision (1) of this subsection commits a civil violation and shall be
20 assessed a civil penalty of not more than \$300.00, and the person's operator's

1 license and privilege to operate a motor vehicle shall be suspended for a period
2 of 90 days.

3 (b)(1) A law enforcement officer shall issue a notice of violation, in a form
4 approved by the court administrator, to a person who violates this section. The
5 notice of violation shall require the person to provide his or her name and
6 address, and shall explain procedure under this section, including that:

7 (A) the person must contact within 15 days the diversion board in the
8 county where the offense occurred;

9 (B) failure to contact the diversion board within 15 days will result in
10 the case being referred to the judicial bureau, where the person, if found liable
11 for the violation, will be subject to a civil penalty of not more than \$300.00 and
12 a 90-day suspension of the person's operator's license;

13 (C) no money should be submitted to pay any penalty until after
14 adjudication; and

15 (D) the person shall notify the diversion board if the person's address
16 changes.

17 (2) When a person is issued a notice of violation under subdivision (1)
18 of this subsection, the law enforcement officer shall complete a summons and
19 complaint for the offense and send it to the diversion board in the county
20 where the offense occurred. The summons and complaint shall not be filed
21 with the judicial bureau at that time.

1 (3) Within 15 days after receiving a notice of violation issued under
2 subdivision (1) of this subsection, the person shall contact the diversion board
3 in the county where the offense occurred and register for the drug awareness
4 program. If the person fails to do so, the diversion board shall file the
5 summons and complaint with the judicial bureau for adjudication under
6 chapter 29 of Title 4. The diversion board shall provide a copy of the
7 summons and complaint to the law enforcement officer who issued the notice
8 of violation, and shall provide two copies to the person charged with the
9 violation.

10 (d) If a person fails to pay a penalty imposed under this section by the time
11 ordered, the judicial bureau shall notify the commissioner of motor vehicles,
12 who shall suspend the person's operator's license and privilege to operate a
13 motor vehicle until payment is made.

14 (e)(1) Upon receipt from a law enforcement officer of a summons and
15 complaint completed under subdivision (b)(2) of this section, the diversion
16 board shall send the person a notice to report to the diversion board. The
17 notice to report shall provide that:

18 (A) The person is required to complete a drug awareness program
19 consisting of at least four hours of classroom instruction or group discussion
20 and ten hours of community service.

1 (B) If the person does not satisfactorily complete the drug awareness
2 program and community service within one year of the offense, the case will
3 be referred to the judicial bureau, where the person, if found liable for the
4 violation, will be subject to a civil penalty of not more than \$300.00, and the
5 person's driver's license will be suspended for 90 days.

6 (C) If the person satisfactorily completes the drug awareness and
7 community service screening, no penalty will be imposed, and the person's
8 operator's license will not be suspended.

9 (2) Upon being contacted by a person who has been issued a notice of
10 violation under subdivision (b)(1) of this section, the diversion board shall
11 register the person in the drug awareness and community service program.
12 The program, which the diversion board shall establish pursuant to this section,
13 shall provide at least four hours of classroom instruction or group discussion
14 and ten hours of community service. The subject matter of the program shall
15 be specific to the use and abuse of marijuana and other regulated drugs, with
16 particular emphasis on early detection and prevention of drug abuse.

17 (3) When a person has satisfactorily completed the drug awareness and
18 community service program, the diversion board shall:

19 (A) void the summons and complaint with no penalty due; and

20 (B) send copies of the voided summons and complaint to the judicial
21 bureau and to the law enforcement officer who completed them. Before

1 sending copies of the voided summons and complaint to the judicial bureau
2 under this subdivision, the diversion board shall redact all language containing
3 the person's name, address, Social Security number, and any other information
4 which identifies the person.

5 (4) If a person does not satisfactorily complete the drug awareness and
6 community service program, the diversion board shall file the summons and
7 complaint with the judicial bureau for adjudication under chapter 29 of Title 4.
8 The diversion board shall provide a copy of the summons and complaint to the
9 law enforcement officer who issued the notice of violation, and shall provide
10 two copies to the person charged with the violation.

11 (5) A person aggrieved by a decision of the diversion board may seek
12 review of that decision pursuant to Rule 75 of the Vermont Rules of Civil
13 Procedure.

14 (c) A violation of this section shall not result in the creation of a criminal
15 history record of any kind, and no information about the violation shall be
16 maintained in any criminal record or database.

17 Sec. 5. 4 V.S.A. § 1102 is amended to read:

18 § 1102. JUDICIAL BUREAU; JURISDICTION

19 * * *

20 (b) The judicial bureau shall have jurisdiction of the following matters:

21 * * *

1 (17) Violations of 18 V.S.A. §§ 4230a and 4230b, relating to possession
2 of one ounce or less of marijuana.

3 * * *

4 Sec. 6. 13 V.S.A. § 7251 is amended to read:

5 § 7251. MUNICIPALITIES; PAYMENT TO AND LIABILITY OF

6 * * *

7 (e)(1) Fifty percent of the fines, forfeitures, and penalties imposed by the
8 judicial bureau for violations of sections 4230a and 4230b of Title 18, relating
9 to possession of one ounce or less of marijuana that result from enforcement of
10 those sections by villages, towns, and cities within their jurisdiction shall be
11 paid to the respective village, town, or city, except for a \$12.50 administrative
12 charge for each violation which shall be retained by the state. The remaining
13 50 percent shall be paid to the court diversion program for funding of the drug
14 awareness and community safety program established pursuant to section
15 4230b of Title 18. Any remainder shall be paid to the office of alcohol and
16 drug abuse programs to fund other drug awareness education programs.

17 (2) The enforcement by villages, towns, and cities shall be by a local
18 law enforcement officer or a law enforcement officer by contract with the
19 village, town, or city. Such law enforcement officer shall be certified
20 according to the provisions of 20 V.S.A. § 2358.