

1 H.200

2 Introduced by Representatives Pearson of Burlington, Komline of Dorset,  
3 Waite-Simpson of Essex, Burditt of West Rutland, Burke of  
4 Brattleboro, Clarkson of Woodstock, Cole of Burlington,  
5 Condon of Colchester, Cross of Winooski, Davis of  
6 Washington, Deen of Westminster, Donovan of Burlington,  
7 Fisher of Lincoln, Frank of Underhill, French of Randolph,  
8 Head of South Burlington, Hooper of Montpelier, Juskiewicz of  
9 Cambridge, Kitzmiller of Montpelier, Krowinski of Burlington,  
10 Macaig of Williston, Marek of Newfane, Masland of Thetford,  
11 McCarthy of St. Albans City, McCormack of Burlington,  
12 Michelsen of Hardwick, Mitchell of Fairfax, Mrowicki of  
13 Putney, O'Sullivan of Burlington, Peltz of Woodbury,  
14 Rachelson of Burlington, Ram of Burlington, Spengler of  
15 Colchester, Till of Jericho, Toleno of Brattleboro, Wizowaty of  
16 Burlington, Woodward of Johnson, Young of Glover, and Zagar  
17 of Barnard

18 Referred to Committee on

19 Date:

20 Subject: Health; regulated drugs; marijuana

1 Statement of purpose of bill as introduced: This bill proposes to replace  
2 criminal penalties with a civil fine for possession of two ounces of marijuana,  
3 two mature marijuana plants and seven immature plants, and by a person 21  
4 years of age or older. A person who is under the age of 21 who is caught with  
5 marijuana in an amount within the possession limit for an adult civil offense is  
6 subject to the same penalties as provided in law for underage possession of  
7 alcohol. Fines collected by the Judicial Bureau for enforcement of civil  
8 penalties established in this bill shall be divided between the State for funding  
9 of law enforcement officers on the Drug Task Force and the Court Diversion  
10 Program for funding of the Drug Awareness and Safety Program.

11 An act relating to civil penalties for possession of marijuana

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

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

14 § 4230a. MARIJUANA; CIVIL PENALTY

15 (a) No person shall knowingly and unlawfully possess marijuana.

16 (b) A person 21 years of age or older who violates this section shall be  
17 assessed a civil penalty of not more than \$100.00.

18 (c)(1) Except as otherwise provided in this section, a person under the age  
19 of 21 who violates subsection (a) of this section shall be punished in

1 accordance with the provisions set forth in 7 V.S.A. §§ 656 and 657, regarding  
2 minors misrepresenting age and procuring, possessing, or consuming liquors.

3 (2) In lieu of the Alcohol Safety Program required pursuant to 7 V.S.A.  
4 §§ 656 and 657, the Diversion Board shall register the person for a Drug  
5 Awareness and Safety Program. The Program, which the Diversion Board  
6 shall establish pursuant to this section, shall provide at least four hours of  
7 classroom instruction or group discussion and ten hours of community service.  
8 The subject matter of the Program shall be specific to the use and abuse of  
9 marijuana and other regulated drugs, with particular emphasis on early  
10 detection and prevention of drug abuse.

11 (d)(1) Except as otherwise provided in this section, a person who possesses  
12 marijuana in an amount equal to or less than the amount in subdivision  
13 4230(a)(1) (criminal possession of marijuana) or who possesses paraphernalia  
14 for marijuana use shall not be penalized or sanctioned in any manner by the  
15 State or any of its political subdivisions or denied any right or privilege under  
16 state law.

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       (e) This section shall not:

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

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           (3) be construed to prohibit a municipality from regulating, prohibiting,  
7 or providing additional penalties for the use of marijuana in public places;

8           (4) be construed to limit the authority of primary and secondary schools  
9 to impose noncriminal penalties for the possession of marijuana on school  
10 property;

11           (5) be construed to affect the search and seizure laws afforded to duly  
12 authorized law enforcement officers under the laws of this State.

13       (f) If a person suspected of violating this section challenges the presence of  
14 cannabinoids, the person may request that the state crime laboratory test the  
15 substance at the person's expense. If the substance tests negative for the  
16 presence of cannabinoids, the State shall reimburse the person at state expense.

17       (g) Upon request by a law enforcement officer who reasonably suspects  
18 that a person has committed or is committing a violation of this section, the  
19 person shall give his or her name and address to the law enforcement officer  
20 and shall produce a Vermont operator's license, a Vermont identification card,  
21 a passport, or another suitable form of identification.

1        (h) The enforcement of this section by villages, towns, and cities shall be  
2        by a local law enforcement officer or a law enforcement officer by contract  
3        with the village, town, or city. Law enforcement officers under this subsection  
4        shall have met minimum training requirements as provided in 20 V.S.A.  
5        § 2358.

6        (i) Fifty percent of the fines imposed by the Judicial Bureau for violations  
7        of this section shall be retained by the State for the funding of law enforcement  
8        officers on the Drug Task Force, except for a \$12.50 administrative charge for  
9        each violation which shall be retained by the State. The remaining 50 percent  
10       shall be paid to the Court Diversion Program for funding of the Drug  
11       Awareness and Safety Program as required by this section.

12       Sec. 2. 18 V.S.A. § 4201(43) is added to read:

13       (43) “Immature marijuana plant” and “mature marijuana plant” shall  
14       have the same meaning as provided in chapter 86 of this title (therapeutic use  
15       of cannabis).

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

17       § 4230. MARIJUANA

18       (a) Possession and cultivation.

19       (1) A person knowingly and unlawfully possessing an aggregate of more  
20       than two mature marijuana plants, seven immature marijuana plants, and two  
21       ounces of marijuana shall be imprisoned not more than six months or fined not

1 more than \$500.00, or both. A person convicted of a second or subsequent  
2 offense under this subdivision shall be imprisoned not more than two years or  
3 fined not more than \$2,000.00, or both. Upon an adjudication of guilt for a  
4 first offense under this subdivision, the court may defer sentencing as provided  
5 in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence  
6 without the filing of a presentence investigation report and except that sentence  
7 may be imposed at any time within two years from and after the date of entry  
8 of deferment. The court may, prior to sentencing, order that the defendant  
9 submit to a drug assessment screening which may be considered at sentencing  
10 in the same manner as a presentence report. Possession of more than two  
11 mature marijuana plants or more than seven immature marijuana plants or  
12 more than two ounces of marijuana shall be a violation of this section.

13 (2) ~~A person knowingly and unlawfully possessing marijuana in an~~  
14 ~~amount consisting of one or more preparations, compounds, mixtures, or~~  
15 ~~substances of an aggregate weight of two ounces or more containing any of~~  
16 ~~marijuana or knowingly and unlawfully cultivating more than three plants of~~  
17 ~~marijuana shall be imprisoned not more than three years or fined not more than~~  
18 ~~\$10,000.00, or both.~~

19 (3) ~~A person knowingly and unlawfully possessing marijuana in an~~  
20 ~~amount consisting of one or more preparations, compounds, mixtures, or~~  
21 ~~substances of an aggregate weight of one pound or more containing any of~~

1 marijuana or knowingly and unlawfully cultivating more than 10 plants of  
2 marijuana shall be imprisoned not more than five years or fined not more than  
3 \$100,000.00, or both.

4 (4) A person knowingly and unlawfully possessing ~~marijuana in an~~  
5 ~~amount consisting of one or more preparations, compounds, mixtures, or~~  
6 ~~substances of an aggregate weight of 10 pounds or more~~ of marijuana or  
7 knowingly and unlawfully cultivating more than 25 plants of marijuana shall  
8 be imprisoned not more than 15 years or fined not more than \$500,000.00, or  
9 both.

10 \* \* \*

11 (d) Only the portion of a marijuana-infused product that is attributable to  
12 marijuana shall count toward the possession limits of this section. The weight  
13 of marijuana that is attributable to marijuana-infused products shall be  
14 determined according to methods set forth in rule by the Department of Public  
15 Safety in accordance with chapter 86 of this title (therapeutic use of cannabis).  
16 Sec. 4. 4 V.S.A. § 1102 is amended to read:

17 § 1102. JUDICIAL BUREAU; JURISDICTION

18 \* \* \*

19 (b) The ~~judicial bureau~~ Judicial Bureau shall have jurisdiction of the  
20 following matters:

21 \* \* \*

