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program. The agency may accept contributions and loans to the revolving loan fund created by this act with the approval of the joint fiscal committee.

Approved: June 16, 1989

NO. 100. AN ACT RELATING TO REGULATED DRUGS.

(H.320)

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

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

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1) A person knowingly and unlawfully possessing marijuana shall be imprisoned not more than six months or fined not more than \$500.00, or both. A person convicted of a second or subsequent offense under this subdivision shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. Upon an adjudication of guilt for a first offense under this subdivision, the court may defer sentencing as provided in section 7041 of Title 13 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 marijuana in an amount consisting of one or more preparations, compounds, mixtures or substances, of an aggregate weight of two ounces or more containing any marijuana or knowingly and unlawfully cultivating more than three plants of marijuana 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 marijuana in an amount consisting of one or more preparations, compounds, mixtures or substances, of an aggregate weight of one pound or more containing any marijuana or knowingly and unlawfully cultivating more than ten plants of marijuana shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

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

(b) Sale.

(1) A person knowingly and unlawfully selling marijuana 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 delivering marijuana in an amount consisting of one or more preparations, compounds, mixtures or substances, of an aggregate weight of one-half ounce or more containing any marijuana shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

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(3) A person knowingly and unlawfully selling or delivering marijuana in an amount consisting of one or more preparations, compounds, mixtures or substances, of an aggregate weight of one pound or more containing any marijuana shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

Sec. 2. 18 V.S.A. § 4231 is added to read:

§ 4231. COCAINE

(a) Possession.

(1) A person knowingly and unlawfully possessing cocaine shall be imprisoned not more than one year or fined not more than \$2,000.00, or both.

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

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

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

(b) Sale.

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

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

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

Sec. 3. 18 V.S.A. § 4232 is added to read:

§ 4232. LSD

(a) Possession.

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

(2) A person knowingly and unlawfully possessing 400 micrograms or more of lysergic acid diethylamide shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(3) A person knowingly and unlawfully possessing 4000 micrograms or more of lysergic acid diethylamide shall be imprisoned not more than ten years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing 40,000 micrograms or more of lysergic acid diethylamide shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

(b) Sale.

(1) A person knowingly and unlawfully delivering lysergic acid diethylamide shall be imprisoned not more than three years or fined not more than \$25,000.00, or both. A

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person knowingly and unlawfully selling lysergic acid diethylamide shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(2) A person knowingly and unlawfully selling or delivering 400 micrograms or more of lysergic acid diethylamide shall be imprisoned not more than ten years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or delivering 4000 micrograms or more of lysergic acid diethylamide shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

Sec. 4. 18 V.S.A. § 4233 is added to read:

§ 4233. HEROIN

(a) Possession.

(1) A person knowingly and unlawfully possessing heroin shall be imprisoned not more than one year or fined not more than \$2,000.00, or both.

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

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

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

(b) Sale.

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

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

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

Sec. 5. 18 V.S.A. § 4234 is added to read:

§ 4234. DEPRESSANT, STIMULANT AND NARCOTIC DRUGS

(a) Possession.

(1) A person knowingly and unlawfully possessing a depressant, stimulant or narcotic drug, other than heroin or cocaine, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both.

(2) A person knowingly and unlawfully possessing a depressant, stimulant or narcotic drug, other than heroin or cocaine, consisting of one-hundred times a recommended individual therapeutic dosage or its equivalent as determined by the board of health by rule shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(3) A person knowingly and unlawfully possessing a depressant, stimulant or narcotic drug, other than heroin or cocaine, consisting of one-thousand times a recommended

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individual therapeutic dosage or its equivalent as determined by the board of health by rule shall be imprisoned not more than ten years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing a depressant, stimulant or narcotic drug, other than heroin or cocaine, consisting of ten-thousand times a recommended individual therapeutic dosage or its equivalent as determined by the board of health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

(b) Sale.

(1) A person knowingly and unlawfully delivering a depressant, stimulant or narcotic drug, other than heroin or cocaine, shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant or narcotic drug, other than cocaine or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(2) A person knowingly and unlawfully selling or delivering a depressant, stimulant or narcotic drug, other than heroin or cocaine, consisting of one-hundred times a recommended individual therapeutic dosage or its equivalent as determined by the board of health by rule shall be imprisoned not more than ten years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or delivering a depressant, stimulant or narcotic drug, other than heroin or cocaine, consisting of one-thousand times a recommended individual therapeutic dosage or its equivalent as determined by the board of health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

Sec. 6. 18 V.S.A. § 4235 is added to read:

§ 4235. HALLUCINOGENIC DRUGS

(a) "Dose" of a hallucinogenic drug means that minimum amount of a hallucinogenic drug, not commonly used for therapeutic purposes, which causes a substantial hallucinogenic effect. The board of health shall adopt rules which establish doses for hallucinogenic drugs. The board may incorporate, where applicable, dosage calculations or schedules, whether described as "dosage equivalencies" or otherwise, established by the federal government.

(b) Possession.

(1) A person knowingly and unlawfully possessing a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both.

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

(3) A person knowingly and unlawfully possessing 100 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than ten years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing 1000 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(c) Sale.

(1) A person knowingly and unlawfully delivering a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than three years or fined not

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

(2) A person knowingly and unlawfully selling or delivering ten or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than ten years or fined not more than \$100,000.00, or both.

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

Sec. 7. 18 V.S.A. § 4236 is added to read:

§ 4236. MANUFACTURE OR CULTIVATION

(a) A person knowingly and unlawfully manufacturing or cultivating a regulated drug shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.

(b) This section shall not apply to the cultivation of marijuana.

Sec. 8. 18 V.S.A. § 4237 is added to read:

§ 4237. DELIVERY OR SALE TO MINORS: SELLING ON SCHOOL GROUNDS

(a) Delivery of regulated drugs. A person knowingly and unlawfully delivering any regulated drug to a person under the age of 18 who is at least three years that person's junior shall be sentenced to a term of imprisonment of not more than five years or fined not more than \$25,000.00, or both.

(b) Sale of regulated drugs. A person knowingly and unlawfully selling any regulated drug to a person under the age of 18 shall, in addition to any other penalty, be sentenced to a term of imprisonment of not more than ten years.

(c) Selling on school grounds. A person knowingly and unlawfully delivering or selling a regulated drug on a school bus or in or on the real property comprising a public or private elementary, secondary or vocational school shall, in addition to any other penalty, be sentenced to a term of imprisonment of not more than ten years.

Sec. 9. 18 V.S.A. § 4238 is added to read:

§ 4238. SECOND AND SUBSEQUENT OFFENSES

A person convicted of a second or subsequent offense of violating sections 4228, 4230, 4231, 4232, 4233, 4234, 4235, 4236 or 4237 of this title, except a violation of subdivision 4230(a)(1), shall be subject to a term of imprisonment or fined up to twice that authorized by those sections, or both.

Sec. 10. 18 V.S.A. § 4201(30) is amended to read:

(30) "Sale" * [includes barter, exchange, or gift, or offer to sell, barter, exchange or give] * 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.

Sec. 11. 18 V.S.A. § 4201(34), (35), (36) and (37) are added to read:

(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

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of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which 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 board 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.

Sec. 12. 18 V.S.A. § 4223(i) is added to read:

(i) A person who violates this section shall be imprisoned not more than two years and one day or fined not more than \$5,000.00, or both.

Sec. 13. 18 V.S.A. § 4241(a)(1), (2), (5) and (6) are amended to read:

(1) All regulated drugs which have been cultivated, manufactured, distributed, compounded, possessed, ~~*[acquired,]~~ sold, prescribed ~~*[or]~~ ~~↓~~ dispensed or ~~delivered~~ in violation of subchapter 1 of this chapter.

(2) All raw materials, products, and equipment of any kind, which are used or intended for use in cultivating, manufacturing, compounding, dispensing, ~~delivering~~, processing, importing or exporting any regulated drug in violation of subchapter 1 of this chapter.

(5) Any consideration, including but not limited to monies, negotiable instruments and securities, used or intended for use in the ~~*[procurement,]~~ cultivation, manufacture, compounding ~~*[or]~~ ~~↓~~ distribution or ~~delivery~~ of any regulated drug in violation of subchapter 1 of this chapter and any proceeds or derivative proceeds of any dispensing or sale of any regulated drug in violation of subchapter 1 of this chapter, including but not limited to monies, negotiable instruments and securities. Such consideration, proceeds or derivative proceeds shall be forfeited to the extent of the interest of an owner, only by reason of an action or omission committed or omitted with the knowledge or consent of the owner. As used herein, "derivative proceeds" shall not include real property which is occupied as the primary residence of a person involved in the violation and a member or members of that person's family.

(6) All conveyances, including aircraft, vehicles or vessels, which are used or are intended for use to transport, conceal or in any manner facilitate the cultivation, manufacture, compounding, dispensing, ~~delivering~~, sale ~~*[,]~~ ~~↓~~ or possession ~~*[or acquisition]~~ of a regulated drug in violation of subchapter 1 of this chapter. No conveyance shall be forfeited:

(A) which is used by any person as a common carrier in the transaction of business as a common carrier unless the owner or other person in charge of such conveyance was a consenting party or privy to a violation of subchapter 1 of this chapter;

(B) by reason of any act or omission of any person other than the owner while the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, this state or any other state; or

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(C) by reason of the use or intended use of the conveyance in violation of subchapter 1 of this chapter by a person other than the owner, unless the owner knew or had reason to believe that the conveyance was used in that manner.

Sec. 14. 13 V.S.A. § 1404(c)(5) is amended to read:

(5) An offense involving *[regulated drugs under subsections 4224(g) and (h) of Title 18]* the sale, delivery, manufacture or cultivation of a regulated drug or an offense under section 4237 of Title 18.

Sec. 15. 18 V.S.A. § 4239 is added to read:

§ 4239. COLLECTION OF FINES

Fines imposed for violation of this chapter shall be considered as a judgment and may be collected and executed upon by the state, through the state's attorney's office or the attorney general's office, according to the Rules of Civil Procedure. The state may use the discovery provisions of the civil rules in connection with collection of an execution upon the judgment. Such procedure for collection of a fine shall not be exclusive.

Sec. 16. 18 V.S.A. § 4228(f) is amended to read:

(f) A person convicted of violating this section shall be subject to imprisonment for a term of up to one year, or a fine of up to \$5,000.00, or both. If the violation of this section involves dispensing, distributing or selling to a person under the age of 21, the person shall be subject to a term of imprisonment of not more than two years or fined up to \$10,000.00, or both.

Sec. 17. REPEAL

18 V.S.A. § 4224 is repealed.

Approved: June 19, 1989

NO. 101. AN ACT RELATING TO RENUMBERING THE ACT 200 GOALS, PROVIDING MORE TIME FOR THE ADOPTION OF CONFORMING REGIONAL PLANS, CERTAIN NOTICE REQUIREMENTS UNDER ACT 200, DEFENDING MEMBERS OF THE COUNCIL OF REGIONAL COMMISSIONS, AND IMPACT FEES.

(H.565)

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

Sec. 1. 3 V.S.A. § 1101(b) is amended to read:

(b) For purposes of this chapter, "state employee" includes any elective or appointive officer or employee within the legislative, executive or judicial branches of state government or any former such employee or officer. The term includes sheriffs and state's attorneys and their deputies and former sheriffs and state's attorneys and their deputies and includes guardians ad litem. The term includes any member of the National Guard ordered into state service pursuant to section 601 of Title 20. The term includes persons appointed to or employed by the council of regional commissions.

Sec. 2. 24 V.S.A. § 4348b(a) is amended to read:

(a) Unless they are readopted, all regional plans, including all prior amendments, shall expire every five years. *[However, no regional plan shall expire by reason of this subsection before January 1, 1987.]*