



DRUG FREE SCHOOLS AND COMMUNITIES ACT
BIENNIAL REPORT
DECEMBER 2024

PRESIDENT'S STATEMENT

In compliance with the Drug-Free Schools and Communities Act (DFSCA), and the Drug-Free Schools and Campuses Regulation, Saint Michael's College is providing this biennial report detailing its review of the effectiveness of the College's alcohol and other drug (AOD) education and policy enforcement programs. Saint Michael's takes seriously its responsibility to adhere to DFSCA regulations, and the College does not permit or condone the illicit or unauthorized possession, use, consumption, sale, or distribution of prohibited drugs and/or alcohol by students or employees on College property or as part of any College-sponsored activity. The College likewise takes seriously its commitment to empathy and care for those individuals facing substance use disorders.

The group charged with conducting this review, including senior staff such as the Vice President for Student Affairs/Dean of Students, the President's staff, the Director of Human Resources, and the Director of Public Safety, among others, has my full confidence. I have reviewed their findings and approve this report.

Richard Plumb, PhD
President
Saint Michael's College
Colchester, Vermont

TABLE OF CONTENTS

Contents

MISSION AND VALUES	4
Mission:.....	4
Vision:	4
STATEMENT OF INTENT	5
EMPLOYEE REGULATIONS AND RESOURCES	6
STUDENT REGULATIONS	8
ALCOHOL AND OTHER DRUG POLICY	8
ALCOHOL POLICY	8
GUIDELINES.....	9
APPROVAL OF EVENTS INVOLVING ALCOHOL.....	9
ALCOHOLIC BEVERAGE ADVERTISING, MARKETING, AND PROMOTION	10
POLICY.....	10
PROMOTION / SPONSORSHIP.....	10
DRUG POLICY	10
MEDICAL MARIJUANA POLICY	11
JUDICIAL SYSTEM AND DISCIPLINARY PROCEDURES.....	12
DISCIPLINARY STATUS SANCTIONS	14
OTHER DISCIPLINARY SANCTIONS:	15
APPEAL PROCESS	21
Prevention Programs	23
Biennial Review.....	27
LOCAL, STATE AND FEDERAL LAWS	31

MISSION AND VALUES

Saint Michael's College is located in Colchester, Vermont, near Burlington and the shores of Lake Champlain.

Mission:

It is the Mission of Saint Michael's College to contribute through higher education to the enhancement of the human person and the advancement of human culture in light of the Catholic faith.

Vision:

To actively engage students with ideas developed over millennia in many world civilizations as well as those ideas from more recently emerging disciplines and assist students in the generative process of creating new understandings. For this engagement to be most productive requires that a student work closely with a faculty member who is deeply, actively, and demonstrably engaged in learning, for in a liberal arts college it is not so much acquired knowledge or personal belief that is passed on from one generation to the next, but rather curiosity and passion for the very ideas of the discipline.

To encourage the development of an empathetic understanding and respect for the differing views of others derived from their history, status or unique philosophical or religious belief. Such an understanding is to be developed through proximate experience grounded in religious, philosophical and historical contexts.

To take responsibility for the moral and spiritual development of each individual by employing the long Catholic intellectual tradition that sees no conflict between belief and reason. This is rooted in the belief that the world is "good", and that the dignity of each person needs to be acknowledged.

STATEMENT OF INTENT

Saint Michael's College is committed to providing a safe and healthy environment for our students, employees and community members. We are also committed to supporting and educating our community members and being responsible partners for the greater Burlington area and the state of Vermont.

Publishing the Drug Free Schools and Communities Act biennial report promotes the college's commitments by providing our policies, available programs, data regarding usage of substances and laws regarding alcohol and drugs for all our community members. This report is required by the U.S. Department of Education.

Timeline:

- Beginning in May 2024, a small, dedicated group of staff began meeting monthly to prepare Saint Michael's Biennial report
- The webpage where the report lives was reviewed for necessary updates/changes
- October 1, 2024: Draft report due for review
- December 1, 2024: Final report submitted
- December 1, 2024: Notification to SMC community (students and employees) of this report and resources on campus/EAP
- March 2025 and October 2025: Republished notification of SMC community (students and employees) of this report and resources on campus/EAP
- Beginning in May 2026, a small, dedicated group of staff begin meeting monthly to prepare Saint Michael's Biennial report

EMPLOYEE REGULATIONS AND RESOURCES

ALCOHOL AND DRUG POLICY (From the Employee Handbook)

The unlawful use, abuse, solicitation, theft, possession, purchase, sale, manufacturing, distribution, or dispensing of a controlled substance in the workplace is strictly prohibited. In addition, substance abuse is not tolerated during working hours on College premises or while conducting business on behalf of the College. This prohibition includes the possession, use or sale of illegal drugs, non-medically authorized drugs or alcohol. Our policy also prohibits off-premises abuse of alcohol and prescription/over-the-counter drugs, as well as the possession, use or sale of illegal drugs, when these activities adversely affect job performance, job safety, or the College's reputation. The legal use of prescription and over-the-counter drugs is permitted during work hours only if it does not impair an employee's ability to perform the essential functions of their job effectively and in a safe manner.

The College abides by **The Drug-Free Workplace Act of 1988**. As a condition of your employment, if you are convicted of any criminal drug statute violation occurring in the workplace, you must notify the Director of Human Resources no later than five days after such conviction. The College will take appropriate action, up to and including termination of employment, or will require that you participate satisfactorily in a drug abuse assistance or rehabilitation program, approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency.

DISCIPLINARY SANCTIONS FOR VIOLATIONS

Violations of this policy will result in disciplinary action, up to and including termination of employment.

PROGRAMS AVAILABLE FOR EMPLOYEES

Information about the dangers of alcohol and drug abuse and community resources on alcohol and drug counseling is available through the **Employee Assistance Program** at **866.660.9533**.

DRUG AND ALCOHOL-FREE/RECOVERY FRIENDLY WORKPLACE

Our commitment to maintaining a safe and healthy campus recognizes that in addition to providing a substance-free work environment, we must also provide a stigma-free recovery friendly environment which encourages the following:

- We encourage employees who are struggling to maintain sobriety while at work to reach out to Human Resources, their manager, or our confidential and free Employee Assistance Program for support and treatment.
- We recognize that employees are most productive, effective and efficient when they work in an environment which is supportive of individuals and families who are affected by substance abuse. We will provide all accommodations allowed under state and federal law for individuals and families affected by substance abuse.
- We are committed to providing our employees with the tools necessary to achieve recovery and provide our employees with connections to services directly or indirectly which will help them to achieve and or maintain their sobriety and promote abstinence from substance misuse. An employee who agrees that their on-the-job performance is being affected by a substance use disorder is entitled to help.
- We are committed to hiring and maintaining employment opportunities for individuals who are or have been affected by substance abuse, and who seek treatment and maintain a history of recovery and sobriety.
- When substance use impacts our organization, it will be treated with fairness and respect for the individual's privacy. Our goal is to help any employee at any level who has a substance use problem to recover their health and keep their employment with the College.

The following data has been reported to the College by the EAP and represents data from January 1, 2024, through July 31, 2024:

- **Three** employees received counseling and support for **their substance use**
- **One** (different) employee received counseling and resources for **their concern around their adult child's substance use or addiction**
- **One** management consultation was held with a manager who had concerns about their employee's mental health, including a reference to *potential* substance use off the clock.
- Since 1/1/2024, **four (4) SMC members** have taken our website [self-assessment quiz on alcohol use](#).

The EAP also provides educational materials to be shared with the community and we shared resources and educational information specific to alcohol use with employees.

STUDENT REGULATIONS

All Alcohol and Other Drug policies for students are consistently applied and violations of the policy are followed up 100% of the time, most times within the week of the infraction. Appropriate sanctions are also consistently applied including fines, the Choices program, campus referrals, restorative practice outcomes, restitution, probation, disciplinary warning, and assessments.

Policies detailed below are from the [Student Code of Conduct 2024-2025](#)

ALCOHOL AND OTHER DRUG POLICY

Philosophy

A goal of Saint Michael's College is to encourage the preparation of our students for living, learning and working as responsible members of our community. Given this goal, the College pursues two fundamental goals:

To provide an atmosphere in which students are encouraged to make informed and responsible decisions. To demonstrate reasonable care to keep our campus free from conditions that create or increase the risk of harm.

Students should have the information, resources and support necessary to make responsible decisions regarding alcohol use and abuse. Information available through Student Health Services, the Counseling Office, the Student Life Office, and the Student Association enhance education efforts regularly presented on campus. A variety of services are available from these offices as well for students who seek assistance with substance abuse problems. Saint Michael's College seeks to construct a learning and living environment in which students will behave responsibly. Activities that promote or encourage abusive drinking, such as drinking games, drinking paraphernalia, multi-liter containers or rotational parties are considered by the college to be irresponsible and in violation of College policy. Such activities hinder the College's attempt to eliminate conditions that create or increase the risk of harm.

ALCOHOL POLICY

Our policy is framed with the following considerations in mind:

Vermont State Law dictates that in order to legally possess or consume alcohol an individual must be 21 years of age.

Vermont Law, and therefore, Saint Michael's College:

Prohibits misrepresenting one's age for purposes of purchase or consumption of alcoholic beverages.

Prohibits those of legal age from serving an individual who is visibly intoxicated. Prohibits those of legal age from purchasing and/or serving alcohol to minors. Prohibits operating a motor vehicle while under the influence of alcohol.

Mandates that any individual who is dangerously intoxicated be taken into protective care. In light of these considerations Saint Michael's College has established the following goals:

To stress moderation, safety and individual accountability.

To provide a college atmosphere free from social pressure to drink.

To maintain and encourage a sense of community where the effects of alcohol abuse are minimal and where problem behavior is reduced.

To provide information and education which encourages responsible decision making with regard to alcohol use.

To provide an atmosphere where we can further encourage programming that is not alcohol related.

To provide confidential and effective counseling services for those with special needs related to alcohol abuse and alcoholism.

To minimize the potential liability of both the individual and the institution.

GUIDELINES

Common sources of alcohol (kegs, beer balls, or their equivalent) are permitted at a college approved event when catered by a licensed caterer. (See Approval of Events Involving Alcohol). Kegs and beer balls, whether empty or full, tapped or untapped, will be confiscated by the College. Possession of a tap will be regarded as evidence of a violation of the keg policy.

Outdoor drinking on college grounds is permitted at an organized and catered event approved by the Dean of Students or appropriate designee. Alcohol is not permitted on or near the athletic fields during athletic contests, i.e., intercollegiate, club or intramural.

At events sponsored by the college, college organizations, or employees where underage students are in attendance no alcoholic beverages will be served with the exception of those approved events served by licensed caterers. Carrying open containers of alcoholic beverages or consuming them in any public area of campus is prohibited. Student groups, organizations or clubs which sponsor an event where alcohol is sold/served may not use Student Association monies to purchase alcoholic beverages for the event by any means. It is a violation of these policies to be intoxicated to the point of significant impairment of mental or physical ability. Students who are intoxicated beyond control may be mandated by the Dean of Students or designee to attend a College alcohol education program and may also be subject to disciplinary action. Students who procure alcoholic beverages for, or who serve underage individuals are not acting in a responsible manner. A student who contributes in any way, however minor, to the intoxication of another person may be held personally liable for any injury or damage the intoxicated person causes or in which he/she becomes involved.

APPROVAL OF EVENTS INVOLVING ALCOHOL

Events where alcohol is present may be approved depending on the nature of both the event and the facility and capacity of the facility, age distribution, and demonstration by the sponsoring organization of its ability to comply with State law and college regulations.

Only those of legal drinking age may have and consume alcohol in TOWNHOUSES AND GRADUATE (AND APARTMENT TYPE) HOUSING. Consumption of alcoholic beverages is prohibited in the remainder of campus housing.

The approval of the Student Life Office is required, and the event must be registered with the Student Life Office.

Methods for the accomplishment of these guidelines will be outlined by the Student Life Office during the event planning process.

These methods include the following: All events must end by 1:00 a.m.

All parties are prohibited Sunday through Thursday except with special permission. Sponsors are responsible for supervision of the event.

Public Safety must be notified and hired when deemed necessary by the Office Student Life. Access must be restricted and accommodation limits (in conformance with Vermont fire/safety laws and the Student Code of Conduct) must be adhered to.

Non-alcoholic beverages and food must be provided. A guest roster is required.

Sponsors are responsible for cleanup.

Approved campus-wide events involving alcohol must be catered and licensed in accordance with Vermont State Law.

Alcoholic beverages may only be sold at catered events. To request money (donation, tickets) as a condition of admission to a non-catered event is comparable to selling alcohol without a license and is therefore a violation of Vermont State Law and College policy.

ALCOHOLIC BEVERAGE ADVERTISING, MARKETING, AND PROMOTION

POLICY

Events at which alcohol is served may be advertised on campus only when the service of alcohol is in full compliance with a valid liquor license or catering license and appropriate state regulations. Alcohol must not be the primary focus in any publicity. The sponsoring group is responsible for any advertising/publicity that is disseminated in conjunction with the event. The sponsoring group also bears the responsibility for cleanup of any and all advertising related to the event. Alcohol must not be used as an inducement to participate in an activity.

Advertisements will avoid demeaning sexual or discriminatory portrayals of individuals or groups. Promotion of alcohol will not encourage misuse or place emphasis on quantity or frequency of use.

Drinking will not be portrayed as contributing to the personal, academic or social success of students or individuals. Alcohol advertising will subscribe to the philosophy of responsible or legal use. Alcohol will not be associated with the performance of tasks that require skilled reactions, such as the operation of a motor vehicle or machinery.

PROMOTION / SPONSORSHIP

Departments, programs, or officially recognized organizations of Saint Michael's College will not enter into any promotional agreements or advertising agreements with alcoholic beverage distributors/companies or their agents. Student organizations, and programs affiliated with the College should ensure that any alcohol advertising and promotional activity accepted by their organization adheres to the guidelines outlined above.

DRUG POLICY

Vermont State Law and Saint Michael's College prohibits the use, possession or transfer of controlled drugs, and subjects the offender to fine and/or imprisonment (18 VSA 4205; 18 VSA 4224). Transfer under this section is defined as including both sale and gift. Any violation of these laws will be considered serious and dealt with accordingly. Any person possessing or transferring illegal drugs shall be subject to disciplinary action. Sale and distribution may result in immediate dismissal.

The College also prohibits the possession, use or distribution of all types of paraphernalia. Possession of such paraphernalia will be considered sufficient evidence that a violation of the College drug policy has occurred.

Marijuana is classified as a Schedule I drug according to the Controlled Substances Act. Thus, the use, possession, cultivation, or sale of marijuana violates federal policy. Federal grants are subject to college compliance with the Drug Free Communities and Schools Act, and the Drug Free Workplace Act. Campuses found in noncompliance of these laws risk loss of federal funding for financial aid. Any violation of the federal law governing marijuana is a violation of campus policy and will be dealt with accordingly.

MEDICAL MARIJUANA POLICY

Saint Michael's College students and employees should understand that possessing, using or selling marijuana in any form is prohibited on campus and during College activities. Although students, staff, and faculty who legally obtain a medical marijuana "registration card" from the Vermont Dispensary are allowed to possess and consume certain quantities of marijuana, doing so is not permitted on the Saint Michael's College campus or at SMC sponsored events.

Marijuana is classified as a Schedule I drug according to the Controlled Substances Act. Thus, the use, possession, cultivation, or sale of marijuana violates federal policy. Federal grants are subject to college

compliance with the Drug Free Communities and Schools Act, and the Drug Free Workplace Act. Campuses found in noncompliance of these laws risk loss of federal funding for financial aid.

If a student is registered as a medical marijuana user and intends to possess and use marijuana, he/she must confine that use to off campus locations. If that student is subject to the required residency policy, he/she may present his/her VERMONT medical marijuana registration to the Office of Student Life and request a waiver of the residency requirement so that he/she may reside off campus. The card must be a Vermont medical marijuana registration card. No other state cards are recognized.

JUDICIAL SYSTEM AND DISCIPLINARY PROCEDURES

Our conduct meetings are staffed by trained residence life and public safety staff members who adhere to the following sanctioning guide for all cases.

Administration

Student infractions of College policies, rules or regulations will fall under the jurisdiction of the Office of the Dean of Students.

Disciplinary action usually begins with the witnessing by a public safety officer, a residence hall staff member, a member of the College administration, faculty, staff or other student code of conduct, which appears to violate a College policy, rule or regulation. An individual wishing to report an incident should contact an official in the Office of the Dean of Students. An individual may be requested to submit a written complaint providing additional detail.

If the alleged incident is considered by the College to constitute a potential violation of a College policy, rule or regulation, the disciplinary process will be initiated. In such cases, the accused student will be notified of the alleged violation, and a reasonable opportunity will be given to the student to discuss the alleged violation with an appropriate official from the Office of the Dean of Students. Said official shall resolve the case following such discussion, or the opportunity for such discussion and any reasonable investigation the official may wish to conduct. In the event a student is found responsible for the alleged violation, a sanction shall be specified in accordance with the terms and definitions provided in this policy and the student shall be provided written notice of the sanction. If the conduct at issue involves harassment or discrimination on the basis of sex, sexual misconduct, or sexual violence, additional procedural elements will apply.

Judicial System

Judicial Review Board: The Judicial Review Board will hear cases referred to by the Dean of Students or his/her designee. The Dean shall refer all cases involving serious or repeated infractions of College policies, rules or regulations including all cases which, in the opinion of the Dean, could result in suspension or expulsion from Saint Michael's College. In any case referred to the Judicial Review Board, accused students shall have a right of hearing before the Board.

The Judicial Review Board shall consist of seven members appointed annually: three students appointed by the President of the Student Association, two faculty members appointed in accordance with faculty

regulations, and two administrators appointed by the President of the College. The Judicial Review Board shall be convened by the Dean of Students or his/her representative. The Board will meet at regular intervals for training as well as to hear cases brought to its attention. The Board shall elect its own chairperson.

In the event that there are not seven members of the Board available, the Board may elect from within itself a three-member Board, consisting of one student, one faculty member and one administrator, who may hear a case and recommend appropriate findings.

The Judicial Review Board shall recommend sanctions to the Dean of Students.

The Vice President for Student Affairs shall have the power to review any decision of the Judicial Review Board and to reverse or modify any decision.

Procedural Guarantees:

Notice: Prior to answering charges before the Judicial Review Board, the student shall be informed in writing of the specific charges which will be addressed at the disciplinary hearing. Said written notice shall be provided in sufficient time (no less than three days prior to the hearing) to ensure the student an opportunity to prepare for the hearing.

Disqualification: No member of the Judicial Review Board who is otherwise interested or involved in a particular case shall participate in the matter. This disqualification shall be at the discretion of the majority of the Review Board.

Right to Assistance: The student appearing before the Review Board has the right to choose a support person from within the Saint Michael's College community to assist throughout the process. No legal counsel nor family members will be allowed as support persons nor attend the hearing.

Proof and Process: Those people bringing the complaint are responsible for providing proof of the charge to the Board, which will determine whether it is more likely than not that the potential violation occurred. Accused and accusing students, and anyone bringing a complaint forward, be allowed to make a statement, to respond to questions from the Board, and to make a closing statement.

Right to Appeal: Students found responsible for violations have a right to appeal the board's determination regarding a violation and/or the Dean of Student's determination of sanctions. Within 10 working days after the student receives notification of the decision, the student may file an appeal. The appeal must be submitted in writing to the Vice President for Student Affairs and state the grounds of the appeal. Upon receipt of an appeal, the Vice President for Student Affairs may review the matter as he/she deems appropriate. The decision of the Vice President for Student Affairs is final.

Student Status Pending Final Action: Pending final action on the charge, the status shall not be altered in any way unless the Dean of Students determines that the continued presence in class or on-campus might endanger his or her own safety or well-being, or that of other members of the College community. Appeals of interim action may be made to the Vice President for Student Affairs.

Residential Review / Senior Residential Review: An administrative hearing where a student's behavior is discussed with members of the Residence Life / Dean's Staff. The Residential Review Conference will be called for more serious or repeat offenses of the Student Code of Conduct. Appropriate expectations

and sanctions will be discussed with the student. Results of the Residential Review may be presented to the Dean of Students for referral to the Judicial Review Board.

Various combinations of professional and graduate level staff will be assigned to hear cases as appropriate in order to best meet the needs of both the student and the community.

Administrative Hearing: A hearing where a student's behavior is discussed with sanctioning officers from the Office of Community Standards and Student Conduct. Appropriate expectations and sanctions will be discussed. The vast majority of violations of the Student Code of Conduct are seen at this level.

DISCIPLINARY STATUS SANCTIONS

Saint Michael's College's response to Code of Conduct violations may include the following sanctions, among others:

Warning: A sanction consisting of a written statement to a student offender that he/she has violated a particular College policy, rule or regulation and warning that subsequent difficulties should not occur. The statement shall be placed in the student life's file in the Dean of Student's Office and may be removed according to conditions specified by the Office of the Dean of Students.

Probation: A sanction consisting of a written statement to a student offender that he/she has violated a particular College policy, rule or regulation and that any subsequent infraction during a stated period of probation may result in suspension or expulsion. A student may be excluded from college activities and privileges as a result of probationary status. The period of probation is determined by the individual responsible for imposing the sanction. That statement shall be placed in the student's file in the Office of the Dean of Students and may be removed according to conditions specified by the Office of the Dean of Students.

Disciplinary Suspension: A sanction consisting of a written statement to a student offender that he/she has violated a particular College policy, rule or regulation. Suspension shall mean exclusion from classes, from presence on campus and from all other privileges or activities for a definite period of time.

The statement of suspension shall be placed in the student's file in the Office of the Dean of Students and may be removed according to conditions specified by the Office of the Dean of Students.

In cases of suspension a student must reapply for admission by writing a letter of request to the Dean of Students.

Expulsion: A sanction consisting of a written statement to a student offender that he/she has violated a particular College policy, rule or regulation. Expulsion shall mean immediate dismissal from the College. The statement of expulsion shall be placed in the student's file in the Office of the Dean of Students but may be removed at any time according to conditions specified by the Office of the Dean of Students.

OTHER DISCIPLINARY SANCTIONS:

Residential Relocation: A sanction that moves a student to another area of on-campus housing.

Eviction from Residence: A sanction that terminates a students' ability to remain in on- campus housing. This eviction may be permanent or for a certain period of time to be determined by the Student Life Office and may include specific weekends throughout the course of the year.

Weekend Evictions are issued in order to temporarily separate a student from the residential community. Weekend evictions involve the student leaving the campus after his/her last class of the week and returning on Sunday afternoon. Specific arrangements will be made between the Office of Residence Life and the student.

During a Weekend Eviction the student may not participate in any aspect of the College's residential program. The student may be on campus to participate in academic or religious activities only unless specific permission is obtained by the Office of Residential Life prior to the requested activity.

Weekend Eviction with a written plan.

A sanction that allows a student to stay on campus in lieu of a Weekend Eviction. This sanction may be for a certain period of time to be determined by the sanctioning officer and may include specific weekends throughout the course of the year. The Weekend Written Plan must be turned in to the sanctioning officer prior to the weekend sanctioned. Additionally, the student must make phone contact with the AD/RD on duty on Thursday, Friday and Saturday as a means of accountability and support. Although a student is allowed to stay on campus, they are to have an academic only relationship with the College. All extracurricular activities will be suspended for the weekend assigned.

Further Definitions and Applications of Sanctions

Sanctioning Officer

Definition: The sanctioning officer refers to the representative of the Student Life Office that meets with the student who has violated one or more College policies. During the meeting, the incident is discussed and appropriate follow-up for the student, usually in the form of sanctions, is determined.

Application: For most first-time and minor violations, the Resident Director will usually meet with the student. Assistant / Associate Deans will meet with students for repeated or major first- time violations. As a student progresses through the Judicial system, other individuals and review boards will get involved, including but not limited to the Residential Review Conference, Senior Residential Review Conference, Director of Residence Life, Dean of Students, or Judicial Review Board. (Although not necessarily in this order). Keep in mind that this is a "general" overview, and that any Student Life Staff member can meet with a student at any time, depending on the circumstance.

Disciplinary Warning

Definition: A sanction consisting of a written statement to a student offender that he/she has violated a particular College policy, rule or regulation and warning that subsequent difficulties should not occur. The statement shall be placed in the student's file in the Dean of Student's Office and may be removed according to conditions specified by the Office of the Dean of Students.

Application: A Disciplinary Warning is the most common sanction for first-time, medium-level violations. A student does not need to do anything when they receive a warning – only make good decisions with the understanding that further violations may result in them being placed on Probation.

Active Sanction

Definition: Active Sanction is defined as a student being asked to do something for his/her personal development, education, or to give back to his/her community. It usually consists of one or more of the following and usually includes a reflection paper to be completed afterward.

Planning and implementing a bulletin board or program for a specified living area; Assisting with the coordination of a specified campus event;

Attending a specified campus event (program, lecture, etc.);

Participating in Community Service (unless already specified as a separate part of the sanction)

Application: The active sanction is usually used as a lower-level sanction. Different staff members have different ways of implementing this sanction. Some ways include:

Verification (written or verbal) from an RA or other staff member; Verification from the sponsor of the event;

Contact made between staff member and student at the event; Completion of a paper.

Attend Choices Class(es)

Definition: Choices is a confidential discussion group for students about alcohol and/or other drug use and abuse. The group, which meets every 2-3 weeks, is facilitated by one or more of the Personal Counselors. Students who are involved in alcohol and/or drug violations may be sanctioned to attend one or more sessions.

Application: Students who attend Choices will have the opportunity to “sign in” so that the Personal Counselors can share their name with Residence Life staff. After each class, the Personal Counselors will provide the Office of Community Standards and Student Conduct with a list of those in attendance.

Attend Respect & Responsibility Classes(es)

Definition: Respect and Responsibility is workshop designed to reach out to those students who have had multiple involvements in the judicial process to assist them in becoming a positive member of the Saint Michael’s community and make positive decisions in the future. The class will be facilitated by Student Life staff members on a rotating basis and will meet at regular intervals throughout the semester.

Application: All sanctioning officers will receive a schedule of Respect and Responsibility classes at the beginning of each semester. The sanctioning officer and student will agree on the meeting(s) that will be attended, and what, if any, follow-up meetings or reflections should take place. After each class, the names of those in attendance will be provided to the Associate Directors.

Community Service

Definition: Community Service is defined as a student asking to give back to the community after violating one or more policies. It is sometimes offered to students (upon their request) in order to reduce the amount of a fine. Other times it is a sanction itself in addition to others.

Community Service can take one of four forms:

- In-Hall: The student works for the Resident Director to help with assigned tasks in the residential area. Examples of this could be helping the custodial staff in the building helping, an RA or RD with a hall program, or helping the RD with other operational tasks such as hall closing or opening.
- MOVE: The student participates in one or more activities with MOVE by signing up on the bulletin board in Alliot. The student does not need to inform MOVE that he/she is being sanctioned to do the service. They need to simply complete the service, and, if requested by the sanctioning officer, turn in documentation of the service and/or a reflection paper.
- Campus: The student works with a specific campus office (arrangements made between sanctioning officer and specific office) to help with a specific project to better the campus. Examples of this could be working with Physical Plant (custodial or grounds), Public Safety (fire extinguisher checks), or Student Activities (large campus events such as concerts, dances, etc.).
- Please note that this option is only available if the campus office(s) agrees to it and if the student's assistance would be of help to that office. Depending on the time of year, workload, or staffing levels, offices may or may not wish to participate.
- Off Campus: The student may participate in an off-campus community service activity either in the local community or in their home community if there is a school vacation coming up. This is helpful when none of the other options are possible, or if the student has a standing commitment with an outside organization. Since this option is not affiliated with Saint Michael's, documentation of the service is usually required.

Application: The sanctioning officer and student will agree on the type of service, number of hours, completion date, and if documentation of service or a reflection paper is necessary. All this information should be documented on the sanction form.

Disciplinary Probation

Definition: A sanction consisting of a written statement to a student offender that he/she has violated a particular College policy, rule, or regulation and that any subsequent infraction during a stated period of Probation may result in suspension or expulsion. A student may be excluded from College activities and privileges as a result of a Probationary status. The period of Probation is determined by the individual responsible for imposing the sanction. The statement shall be placed in the student's file in the Office of the Dean of Students and may be removed according to conditions specified by the Office of the Dean of Students.

Application: Probation is the highest level of sanctioning in the Saint Michael's judicial system. Students are placed on Probation after repeated violation of College policies, OR for first-time violations that are very serious in nature. Students on Probation may be subject to the loss of privileges on campus, including but not limited to parking, Smuggler's Notch Pass, Cultural Pass,

extracurricular activities including athletics, the ability to participate in certain aspects of the Room Lottery process, or the ability to remain on campus for weekends.

Students may be placed on Probation by any sanctioning officer at or above the Assistant / Associate Dean level. The length of Probation will be determined by the sanctioning officer and will be listed on the sanction form or in the sanction letter that the student receives. The length of Disciplinary Probation usually ranges in three month increments but is dependent on the severity of the issue and judicial history.

Eviction / Weekend Eviction

Definition: A sanction that terminates a student's ability to remain in on-campus housing. This eviction may be permanent or for a certain period of time to be determined by the Student Life Office and may include specific weekends throughout the course of the year.

Application: Weekend evictions have proven to be an effective sanctioning tool, by asking students who make poor decisions to remove themselves from the residential community for one or more weekends. Students who are placed on Disciplinary Probation are frequently issued one or more weekend evictions. The specific weekends will be determined by the sanctioning officer. During a Weekend Eviction, the student may not participate in any residential activities and may not be in any residential areas from the end of their classes for the week or 4:00pm on Friday (whichever comes first) and may return after 3:00pm on Sunday. The student may, however, go to the library, chapel, gym, the academic buildings, and Alliot (only for the purpose of having meals in the Dining Hall). The student is to have an academic only relationship with the college for the specified eviction time.

Weekend Written Plan

Definition: A sanction that allows a student to stay on campus in lieu of a Weekend Eviction. This sanction may be for a certain period of time to be determined by the sanctioning officer and may include specific weekends throughout the course of the year.

Application: The Weekend Written Plan must be turned in to the sanctioning officer prior to the weekend sanctioned. Additionally, the student must make phone contact with the AD/RD on duty on Thursday, Friday, and Saturday as a means of accountability and support. Although a student is allowed to stay on campus, they are to have an academic only relationship with the College.

All extracurricular activities will be suspended for the weekend assigned.

Fine

Definition: Fines are usually issued for first- and second-time minor violations and are an automatic part of most sanctions. Fines are generally issued to serve as a deterrent to ensure that a behavior does not occur again. Monies collected from fines are used for various hall and campus programs as well as to improve the living environment in the residence halls.

Application: Fines can be assigned by any sanctioning officer. The student and sanctioning officer will agree on a due date for the fine.

Students have one option for paying their fine: having it charged to their student account.

Referred to Campus Offices

Definition: There are times when students may be referred to other campus offices as part of a judicial sanction. A referral typically fits into one of two categories. The first category is to assist a student with one or more issue(s) that he or she may be experiencing and would benefit from one or more services that an office can provide. Examples of this would be Wellness Center (medical), Mental Health/Substance Abuse Counseling within the Wellness Center (counseling), Career Development Office (career services), Academic Affairs (academic difficulties), and Edmundite Campus Ministry (spiritual).

The second category for a campus referral would be to help the student to establish a positive connection on campus through involvement in one or more activities. Examples of this would be MOVE (community service), Student Activities (involvement in campus clubs or groups), Wilderness Programs (outdoor activities), and Athletics (recreation, intramurals, varsity athletics).

Application: Referrals may be mandated or encouraged. The sanctioning officer should have a brief conversation with the student about how he or she would benefit from meeting with someone from the particular office and contact information should be listed on the sanction form. Whenever possible, the sanctioning officer should contact the office or individual in advance to inform them of the referral.

Residential Relocation

Definition: A sanction that moves a student to another area of on-campus housing.

Application: A residential relocation is issued when moving a student out of his/her current situation would be beneficial to both the student and the immediate community, to remove the student from potential negative influences, or when a student has somehow violated the standards of the community. Relocating a student is a difficult sanction to apply. To begin with, it is not always available, depending on if there are any vacant spaces on campus. When there are spaces available, a student may be relocated on a permanent or temporary basis. The student will work with the Housing Coordinator, and the Director of Residence Life to facilitate the relocation.

In years where there is a "flexible housing" location, students may be moved to that location for a specified period of time to be determined by the sanctioning officer. "Flexible Housing" locations are supervised by one or more staff members.

Judicial Review Board

Definition: The Judicial Review Board will hear cases referred to by the Dean of Students or his/her designee. The Dean shall refer all cases involving serious or repeated infractions of College policies, rules or regulations including all cases which, in the opinion of the Dean, could result in suspension or expulsion from Saint Michael's College.

Application: When the need for a Judicial Review Board is determined, the Director of the Office of Community Standards and Student Conduct will prepare a letter for the student. The

Assistant / Associate Dean of Students will present the letter to the student at least three days before the scheduled hearing.

The Director of the Office of Community Standards and Student Conduct will assemble a schedule of Judicial Review Boards at the beginning of each semester. This schedule will establish the day and time of each Review Board as well as the members of the community who will serve on the Board. Each Judicial Review Board is comprised of three students appointed annually by the Student Association President, two staff members appointed annually by the President of the College, and 2 Faculty members appointed annually by the Dean of the Faculty. There is a list of alternate members who will serve in cases where a regular serving member cannot serve.

Each student appearing before the board has the ability to select a support person from among the College Faculty or Staff. This person is usually a member of the Student Life staff, since they are most familiar with the judicial system and usually have a good relationship with the student. Students have also selected coaches, club advisors, or Faculty members to serve in that role as well. The student and support person will meet regularly before the hearing so that the support person can assist the student in preparing a statement to be read as well as providing emotional support, as this is always a high anxiety time for the student.

During the hearing, information is presented by the Student Life Office as well as the student. After the presentation of information and questioning, the board members will issue a decision. There are three possible outcomes of a Judicial Review Board Hearing:

Retention: The student is retained at the College. Retention usually comes with a number of sanctions as well as a series of check-ins with Student Life staff and other members of the community to ensure success, and a statement of what will happen if the student is involved in any future violations.

Suspension: The student is separated from the College for a specified period of time. The board will determine the length of suspension as well as indicate any conditions that must be met in order for the student to return. In all cases after suspension, the student must reapply through the Dean of Students Office. The suspension is usually effective immediately, although in certain circumstances (i.e., near the end of a semester) it may take effect at a later date.

Dismissal: The student is permanently dismissed from Saint Michael's College. The dismissal is effective immediately.

After the conclusion of the hearing, the student will return to the Student Life Office with his/her support person and the Student Life staff to plan for the appropriate follow-up.

Residential Review or Senior Residential Review

Definition: An administrative hearing where a student's behavior is discussed with members of the Residence Life Staff. Appropriate expectations and sanctions will be discussed with the student. Results of the Residential / Senior Residential Review may be presented to the Dean of Students for referral to the Judicial Review Board. Various combinations of professional and

graduate level staff will be assigned to hear cases as appropriate in order to best meet the needs of both the student and the community.

Application: Decisions will be made on Monday as to which student(s) (if any) will attend a Residential Review Conference (RRC). RRC's will take place on Wednesdays at pre-determined times. Sanctions will be determined by the AD's and RD's present at the hearing, and will consist minimally of a Dean's Conference, Disciplinary Probation (usually for at least one semester), and at least three (3) weekend evictions. Other sanctions pertinent to the student's situation, including referrals to other offices, may be added.

APPEAL PROCESS

The right to appeal

Any student found responsible for a violation of the Student Code of Conduct shall have the right to appeal his/her case (based on the grounds below) to the Disciplinary Appeal Committee.

Grounds for appeals

Students who have been found responsible for a violation of the Student Code of Conduct may request an appeal on the grounds that:

1. information was not available at the time of the hearing is now available, and could reasonably be expected to have altered the outcome of the case 2
2. the college disciplinary procedures were violated in a way that probably adversely affected the outcome of the case3
3. the student had an extraordinary life event occur that would preclude them from completing the assigned sanctions.

Timeline for appeals

The student shall have 4 days to appeal any sanctions from the time of written notification of the sanctions.

Disciplinary Appeals Committee

The college disciplinary appeals committee is a Student Affairs committee set up to consider written appeals by students found responsible for any general conduct hearing.

Composition

The Disciplinary Appeals Committee shall consist of the Director of Community Standards and Student Conduct and two to four Student Affairs staff members.

Role

The Disciplinary Appeals Committee is responsible for reviewing any appeals by students or organizations that are properly submitted.

Exceptions

The Judicial Review Board and the Sexual Misconduct Policy.

All appeals are final with the Dean of Students.

Additionally, student athletes at Saint Michael's College are subject to and required to abide by the following policy:

Athletics Alcohol and Substance Use

At no time while representing Saint Michael's College on team travel or team activity, will our coaches, athletes or support staff, allow, condone, or be associated with the possession, consumption, or use of alcohol, tobacco, and/or illegal drugs. We understand this is applicable to anyone associated with the athletic program, regardless of age or relationship to the program and that expulsion from the team for the remainder of the season is the likely consequence.

Alcohol Use

Additionally, we understand that violations of civil laws regarding underage drinking, providing of alcoholic beverages to underage individuals, or possession or use of illegal drugs at any time during the academic year is a violation of the social contract and will result in disciplinary action. For those of legal drinking age, we agree to abide by the 48-hour rule, which prohibits use of any alcohol 48 hours prior to competition. We agree that abuse of alcohol *at any time* is inappropriate, including binge drinking, excessive blood alcohol content, hospitalization, Act I, or detention center placement. We understand engagement in these behaviors have consequences that may include suspension from one or more contests (specified on each team), weekend suspension from campus and school activities (including away games), and other penalties imposed by specific team expectations and the Student Life Office.

As athletes committed to performing at our highest ability, we agree to adhere to stricter drinking policies, including potentially implementing a "dry" portion of the season, as decided by each team individually. We will make clear the expectations for adhering to these restrictions for our competing vs. non-competing athletes, as well as how these expectations will apply out of season.

[Teams are encouraged to add additional team commitments for student expectations]

All Other Drug Use

Per NCAA requirements, we agree to keep tobacco out of play, prohibiting its use during both practice and competition. We agree to a 48-hour rule, to abstain from tobacco **and nicotine** use for the 48 hours prior to competition (including all forms of tobacco—chewing tobacco, cigarettes, snuff, and juuling/vaping). As a reminder, SMC is a tobacco-free campus and tobacco use is prohibited at Saint Michael's College.

We agree to refrain from the use of banned performance enhancing drugs or substances which are not permitted by the NCAA and understand it will result in the loss of eligibility and dismissal from the team. When using any kind of supplements, we agree to inform our Athletic Trainer to make sure they are approved by the NCAA.

While marijuana is now legal in Vermont, due to NCAA substance use policies and Saint Michael's College policies, marijuana, in any form, is not permitted to be used by any athlete, in or out of season, to maintain athletic eligibility.

[Teams are encouraged to add additional team commitments for student expectations]

Prevention and Intervention Programs

Saint Michael's College is committed to the overall health and wellbeing of our student population. Because we are a residential college and most of our students live on campus, we are committed to providing prevention and education programming to address the use and abuse of alcohol and other substances that are a part of collegiate life. Below is a list of programs offered to our full-time residential population to mitigate the risky behaviors and negative consequences associated with alcohol and other drug abuse.

Weekly Event Registration

- Fill out an online event registration form
- Attend a beginning of the semester awareness class
- Weekly Meeting with Residence Life Staff

The weekly event registration invites students to plan and get support for any gathering they plan to hold in their place of residence. The important part of event registration related to substance abuse prevention is that students are welcomed and given support for hosting an event, which includes help from Residence Life Staff and Public Safety if the event starts to get out of control. It indicates a partnership between staff and students towards the goal of substance abuse prevention. Events that are registered tend to be more in control because they are bound by the expectations listed below. When parties are more in control, it is less likely that students engage in dangerous/risky behavior related to substance abuse. Students have responded favorably to this event registration policy. And, as is noted in the numbers below, the numbers of problematic and dangerous behaviors related to alcohol abuse have decreased since this process was instituted in 2016 in the spirit of promoting moderate and responsible drinking for those of age in the townhouses.

The approval of the Student Life Office is required, and the event must be registered with the Student Life Office.

The methods for the accomplishment of these guidelines will be outlined by the Student Life Office during the event planning process and are summarized below:

- All events must end by 1:00 a.m.
- Events may only be registered on Friday and Saturday Night
- Kegs and multi-liter containers are strictly prohibited
- Sponsors are responsible for supervision of the event

- The Office of Student Life will notify Public Safety of all registered events. Access must be restricted and accommodation limits (in conformance with Vermont fire/safety laws and the Student Code of Conduct) must be adhered to
- Non-alcoholic beverages and food must be provided
- A guest roster is required
- Sponsors are responsible for all recycling and cleanup outside your area
- Sponsors are responsible for all guests

GREAT Housing

Students living in GREAT Housing are members of the first-year, sophomore, junior and senior classes who wish to live in *alcohol and drug free environments* governed first by an individual's commitment to the program and secondly by the GREAT Housing Living Contract. Students choosing to live in GREAT Housing are agreeing to live a lifestyle that does not allow alcohol and/or other drugs to negatively affect the community of which they are a valuable member.

As such, students will recognize and affirm that choice in their daily actions by signing a contract with their community, and the College, to uphold the ideals of the GREAT Housing Program. The purpose of such a program is to provide students with a comfortable and safe living environment free from the pressures associated with alcohol and other drugs.

The following contract is based on an honor code with oneself. It is the responsibility of the individual to uphold the contract, followed by the members of the community/floor/suite, and finally assisted by the Residence Life Staff.

By choosing to live in the GREAT Housing Program, I agree to the following:

- I recognize that I am a valuable resource for the GREAT Housing Program, and I will donate my time and talents by participating in at least one GREAT Housing Program Committee.
- I will not use any drugs or alcohol in the GREAT Housing Program or living areas. I will not bring any alcohol or other drugs into the GREAT Housing living areas.
- If I choose to use alcohol outside of the GREAT Housing Program, I will not enter GREAT Housing if my behaviors may give rise to negative effects (including, but not limited to fighting, vomiting, noise, damage, etc.) within my community.
- I am responsible for my guests. I will ensure that they abide by the GREAT Housing Program's Living Contract, and I understand that I will be held accountable for their actions.
- I understand that floor/hall meetings and floor/hall programs are important to successful community interaction and development, and I agree to be a regular part of this community. Furthermore, I will assist in organizing ONE social/educational program a semester in conjunction with my floor or suite and the support of the Residential Life Staff. Not doing so may jeopardize my ability to remain in the GREAT Housing Program.
- As a member of the GREAT Housing Program, I recognize that I have special access to the GREAT Clubhouse, and I will treat this space the same as the GREAT Housing living areas.
- Additional terms of agreement may be determined by each individual community as the need arises.

Typical GREAT Housing Evening Offerings:

Tuesdays - “Family Game Knight” – A weekly time to de-stress and have fun with friends

Wednesday - Wellness Wednesday offers a focus on mental health and self-care.

Thursdays - “The Gaming Club meets GREAT”

Fridays - Movie Night

Saturdays - A variety of on- and off- campus programs.

Echeckuptogo is an interactive online program that all incoming first year students must take before arriving on campus. It uses the latest evidence-based prevention methods to create a highly engaging user experience, inspiring students to make healthier decisions related to alcohol and other drugs. This course includes tailored content that:

- Engages abstainers, light to moderate drinkers, and frequent drinkers with customized messaging
- Educates students on the mental and physical effects of alcohol
- Prepares students to engage in bystander intervention

Weekly campus-wide community-building events are offered every Friday and Saturday in each of the five residential areas on campus for a total of 10 programs each weekend which any student is welcome to attend, regardless of where they live on campus. The shift to focusing community-building events on the weekends was instituted in 2016 as another effort to reduce alcohol use and abuse by giving students adequate access to alternative activities.

Wellness Wednesdays and Thoughtful Thursdays are residential life programs created to combat mid-week alcohol and other drug use and mental health challenges. The programs are specifically targeted to a residential area and the specific developmental needs of that area. For example, first year students typically need more direction and upper-class students need less direction and more broad support.

Monthly Tabling –Our Wellness Coordinator hosts a tabling session outside the cafeteria on campus to share information with students related to Wellness – topics include but are not limited to: substance use and misuse, healthy relationships, consent, mental health, STI prevention, nutrition, etc.

Outreach/Education and Residence Life Collaboration – our Wellness Coordinator is available to collaborate with RA/RD staff to create Wellness programming in the residence halls as requested.

STUDENT ACTIVITIES PROGRAMMING

Friday Knight Dry is the result of a collaboration between Residence Life and the Student Government Association. Together they created a twice-yearly campus-wide experience encompassing all residence halls, the outdoor spaces, and two student centers. It is a night of fun, food, and prizes, as well as an opportunity to do something different on a Friday night. This happens 3-4 times per year. It also provides new and returning students alike the opportunity to meet each other in a social environment. One of the main goals of Friday Night Dry is to counter the perception that the only way to have fun is

through the use of alcohol and other drug use. This event draws 500-900 enthusiastic student participants.

Late Night Grilling is offered from 11:00 pm – 1:00 am every Friday and Saturday night. The goal of late-night grilling is to decrease the impact of alcohol and other drug use in the late-night hours by providing an attractive alternative which encourages food consumption (to slow the absorption of alcohol) and an interruption of drinking behavior for a few hours. 250-350 students participate each weekend.

Adventure Sports, which is an outdoor adventure program at the College, provides the opportunity for leadership development for a core group of students and outdoor adventures for the rest of the undergraduate population. Each weekend of the semester students can choose to participate in offerings in the following areas: canoeing, hiking, mountain biking, white water kayaking, sea kayaking, rock climbing, ice climbing, back country skiing, alpine skiing, camping, and wilderness first aid. In the course of a full year, 1000 students participate in approximately 140 outdoor adventures.

JED Foundation Collaboration: Saint Michael's College recently completed a four-year collaboration with the JED Foundation. We are now considered a "JED Campus." The purpose of this partnership was to assess our systems for supporting student mental health in all areas of our campus life and to develop a strategic plan to address areas of weakness. We currently have a JED Task Force with four active working groups: healthy sexuality, substance abuse prevention, life skills, and gate keeper training.

Mental health issues and substance abuse often go hand in hand. Our work with the JED Foundation to prevent and address mental health challenges on campus also helps to prevent and address issues related to substance use and abuse.

Increased collaboration between Residential Life and Public Safety: Public Safety Staff and Residential Life Staff have gone to great lengths to work more collaboratively in the past four years than ever before to support the safety and wellbeing of our students more effectively on campus. Some examples of this collaboration are: joint trainings both at the beginning of the year and ongoing throughout each semester; assignment of a public safety officer to each residential area who also attends all area meetings and residence hall staff meetings; follow up from the public safety officer with students who have had conduct violations in their area. The campus investigator attends weekly residential director meetings to represent public safety. The on-call public safety officers always check in with res life staff before a shift about any concerns or registered parties to be aware of.

Choices is a psychoeducational program, led four to six times per semester by a Licensed Alcohol and Drug Abuse Counselor through the Bergeron Wellness Center. We welcome any student who has concerns about their substance use and would like to talk about it in a confidential and supportive environment, as well as any student who has been referred by the Residential Life staff because of a violation of the SMC drug and alcohol policy. The group provides psychoeducation through a harm reduction lens. Students learn about Blood Alcohol Content (B.A.C.), tolerance, drink measurement, alcohol content, safe use practices, abstinence, moderation, and identification of high-risk situations, as well as strategies for self-care in high-risk situations. Choices is a confidential group in which students explore the pros and cons of their relationship with substances. They can identify any changes they want to make to their behavior going forward after the meeting. Additionally, after the group is over, each student is required to attend an individual meeting with our Outreach/Education Coordinator to look

more closely at their individual situation, get resources, and make a plan for going forward safely. Each year we have between 20-30 students go through the Choices Program.

Screening, Brief Intervention, and Referral to Treatment (SBIRT Grant): We have been the sub-recipients of a Federal Grant to provide screening, brief intervention, and referral to treatment for substance use issues. Our SBIRT clinician, whose title is “Education and Outreach Coordinator,” also oversees the outreach arm of our Bergeron Wellness Center. This grant is ending as of September of 2024 but the position will continue here at SMC.

Vermont College Coalition The VCC meets several times a year with Vermont Colleges and the State of Vermont representatives to discuss the current trends in higher education, bring forth trainings, hold statewide conferences, collaborate when possible, and generally support each other in drug and alcohol use education and reduction on our campuses.

Substance Abuse Recovery Support: The college has an informal understanding with the Collegiate Recovery Community at the University of Vermont for students in recovery. This is in addition to the individual support services available from Student Life and the Bergeron Wellness Center on campus. We do not have a formal recovery community program at Saint Michael’s College.

Biennial Review

The numbers in the chart below are percentages that represent the percentage of our students who responded affirmatively to the question asked in the American College Health Association (ACHA) survey over the past ten years. The survey was conducted this past Spring semester (2024) and will be conducted again in the Spring of 2026.

There was a concerted effort, starting in 2016, to reduce the number of alcohol violations that occurred on campus. Our numbers from both the Conduct Office, as well as from the American College Health Association, seem to indicate that the prevention efforts put into place have had an impact on our overall numbers related to substance use and abuse. As reflected in the ACHA data below, many of the risky behaviors associated with substance use on campus have decreased.

<u>Saint Michael's College ACHA Executive Summary</u>				
<u>Data on Tobacco, Alcohol and Marijuana</u>				
	2014	2016	2019	2024
<i>Use in the last 30 days of:</i>				
Alcohol	79.1%	77.6%	75%	81.5%
Cigarettes	14	11.1	6.6	Survey combined cig and e-cig
e-cigarettes		5.7	22.4	30.1
Marijuana	32.6	33.5	30.7	32.8

<i>Risky Behavior with Alcohol Use:</i>				
Did something you later regretted	50	44.2	38.1	20
Forgot where you were or what you did:	48.2	41.3	39.2	44.5
Got in trouble with the police:	4.8	3.7	2.1	.7
Someone had sex with me without my consent	2.1	3.7	2.1	2.0
Had sex with someone without their consent	0.6	0.2	0.3	0
Had unprotected sex	26.4	26.6	23	16.6
Physically injured myself	21.5	12.5	14.2	8.6
Physically injured another person	3.1	1.2	1.6	0
Seriously considered suicide	3	2.7	5.2	6.0
One or more of the above risky behaviors	67.8	60.8	57.9	34.1

The data above shows that risky behavior connected to the use and abuse of alcohol has continued to decrease from 2016 – 2020 in many areas . Notable exceptions are: alcohol use, blackout/brownouts, marijuana use, vaping, and “seriously considered suicide.” It is interesting to note that we had a steady reduction in alcohol and marijuana until 2019, just before the pandemic, and that it rose again since the pandemic. It is not surprising that the numbers of students who have “seriously considered suicide” have been going up since 2016 because this data about suicidal ideation mirrors the rise in general mental health distress, suicidal ideation, and deaths by suicide on other college campuses and throughout the country at large. The data points to the need to continue to develop our campus supports for the prevention of mental health issues among our student body. The work that we are doing with the JED Foundation has helped us to get a handle on what areas of the college need greater attention and where it makes most sense to put our financial and human capital going forward. NOTE: We did not do the ACHA survey last year in 2021 because of the pandemic, and had hoped to do it in 2023. Unfortunately, we were not able to do it last year but are back on track now.

Further statistics from the Office of Community Standards at Saint Michael’s College also demonstrate an overall decrease in problematic behavior related to alcohol and other drug abuse. The numbers reflected below must also reflect the changing landscape of the residential experience during COVID19. The numbers in the chart below reflect this reality as well.

	2023-2024 (total students 1300)	2021-2022 (total students 1395)	2020-2021 (total students 1431))	2019-2020 (total students 1550)
<i>Protective Custody Hearings (Sober Friend, ACT 1, UVMMC, CCCC)</i>	28	21	11	27
<i>Alcohol Related Hearings</i>	89	130	86	92
<i>Marijuana Related Hearings</i>	8	38	21	39
<i>Disrespect for Persons or Property Hearings</i>	15	42	33	19

Strengths and Challenges

The main strength of the prevention/intervention programming in Student Affairs at Saint Michael’s College continues to be the ability to identify areas of needed growth and development and respond quickly with programming and policies to support those needs. In looking at the numbers from the ACHA data, risky behaviors related to alcohol use have continued to decrease over the same period that prevention and intervention programming by the college and participation by students have been increasing. This leads us to conclude that we are on the right track and should continue with the efforts we are making. The combination of a deliberate partnership between Residence Life and Public Safety, the increase in prevention programming on the weekends, the creation of policies that support no use or moderate use of substances, and the consistent response to students when they do have alcohol or other drug violations, and the addition of the SBIRT position and programming, have combined to help our campus to be a safer place for students.

A challenge for SMC Student Affairs is a lack of sufficient strategies for assessing the specific cause-and-effect relationship between student affairs programming and a reduction in the student use/abuse of alcohol and other drugs on our campus, as well as associated risky behaviors. Also, although the use of marijuana, alcohol, and cigarettes decreased over the last ten years, e-cigarette use has increased dramatically. This statistic is in line with statistics across the country among adolescents and young adults and needs to be addressed at SMC.

Over the past few years, we have developed a coherent campus-wide vision and approach to addressing substance use issues across the campus. What is currently lacking is the resources to realize that vision. Many dedicated individuals and departments have conducted creative educational and interactive programs, and our statistics demonstrate the positive change in culture. However, these activities lack a common structure and process for the collection of data. Through our work with the JED Foundation initiative, we have created a Task Force that has several working groups as described above. One of the working groups has worked on a coherent campus-wide vision for addressing substance misuse on campus.

Recommendations

Continue programming to address the increased use of e-cigarettes and vaping use.

Continue programming and education around the use and risks of cannabis as the use and acceptance in the United States increases, and particularly now that it is legal in the state of Vermont.

Continue to provide prevention programming around the responsible use of alcohol.

The college will continue to work towards a consistent methodology for gathering and evaluating data on substance use among students and employees to provide both consistency in evaluation and focus for our prevention and support efforts.

Distribution

This report will be distributed through the following methods:

- Emailed directly to all current students and employees upon publication
- Posting on the College's public web page
- Posting on the internal college portal
- Provided to all new employees upon hire
- Provided to all new students upon registration
- Physical copies will be available from the office of student life and public safety upon request. Requests can be made anonymously.

LOCAL, STATE AND FEDERAL LAWS

There are no local ordinances or regulations governing the use or restriction of alcohol or other drugs in the town of Colchester or regulated by Chittenden County.

Vermont statutes:

Excerpts taken from Vermont Statutes Online, found at <https://legislature.vermont.gov/statutes/>

Special Note: The Vermont Statutes Online does not include the actions of the 2024 session of the General Assembly. We expect them to be updated by November 1st.

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

[Title 18: Health](#)

[Chapter 084: Possession and Control of Regulated Drugs](#)

[Subchapter 001: Regulated Drugs](#)

- **§ 4230. Cannabis**

(a) Possession and cultivation.

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

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

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

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

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

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

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

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

(4) A person knowingly and unlawfully possessing more than one pound of cannabis or more than 2.8 ounces of hashish or knowingly and unlawfully cultivating more than six mature cannabis plants or

12 immature cannabis plants shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

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

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

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

(b) Selling or dispensing.

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

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

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

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

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

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

• **§ 4230a. Cannabis possession by a person 21 years of age or older**

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of cannabis or five grams or less of hashish and two mature cannabis plants or fewer or four immature cannabis plants or fewer or who possesses paraphernalia for cannabis use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of cannabis or five grams of hashish that may be possessed by a person 21 years of age or older shall not include cannabis cultivated, harvested, and stored in accordance with section 4230e of this title.

(2)(A) A person shall not consume cannabis in a public place. As used in this section, "public place" has the same meaning as provided by 7 V.S.A. § 831.

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

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

(b)(1) Cannabis possessed or consumed in violation of State law is contraband pursuant to subsection 4242(d) of this title and subject to seizure and forfeiture.

(2) This section does not:

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

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

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

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

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

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

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

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

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

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

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

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

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

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

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

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of cannabis on the employer's premises. (Added 2013, No. 76, § 2; amended 2013, No. 95 (Adj. Sess.), § 81, eff. Feb. 25, 2014; 2013, No. 194 (Adj. Sess.), § 13; 2017, No. 86 (Adj. Sess.), § 4; 2019, No. 164 (Adj. Sess.), § 30, eff. Oct. 7, 2020; 2019, No. 167 (Adj. Sess.), § 3, eff. Oct. 7, 2020; 2021, No. 20, § 73.)

• **§ 4230b. Cannabis possession by a person 16 years of age or older and under 21 years of age; civil violation**

(a) Offense. A person 16 years of age or older and under 21 years of age who knowingly and unlawfully possesses one ounce or less of cannabis or five grams or less of hashish or two mature cannabis plants or fewer or four immature cannabis plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

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

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

(b) Issuance of notice of violation. A law enforcement officer shall issue a person who violates this section with a notice of violation, in a form approved by the Court Administrator. The notice of violation

shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;

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

(4) the person shall notify the Diversion Program if the person's address changes.

(c) Summons and complaint. When a person is issued a notice of violation under this section, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

(d) Registration in Youth Substance Awareness Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Awareness Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(e) Notice to report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse assessment or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse assessment or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(f) Diversion Program requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Awareness Safety Program. Pursuant to the

Youth Substance Awareness Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense that the Diversion Program has imposed, the Diversion Program shall:

(A) Void the summons and complaint with no penalty due.

(B) Send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information that identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required Program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(g) [Repealed.]

(h) Record of adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications, which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section. (Added 2013, No. 76, § 2; amended 2015, No. 147 (Adj. Sess.), § 12, eff. May 31, 2016; 2017, No. 86 (Adj. Sess.), § 5; 2019, No. 167 (Adj. Sess.), § 6, eff. Oct. 7, 2020.)

- **§ 4230e. Cultivation of cannabis by a person 21 years of age or older**

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates not more than two mature cannabis plants and four immature cannabis plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

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

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

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

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

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

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

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

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

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

(C) not more than \$500.00 for a third or subsequent offense. (Added 2017, No. 86 (Adj. Sess.), § 7; amended 2021, No. 158 (Adj. Sess.), § 8, eff. May 31, 2022.)

• **§ 4230f. Dispensing cannabis to a person under 21 years of age; criminal offense**

(a) No person shall:

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

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

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

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

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

(e)(1) Subsections (a)-(d) of this section shall not apply to a person under 21 years of age who dispenses cannabis to a person under 21 years of age or who knowingly enables the consumption of cannabis by a person under 21 years of age.

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

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

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

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

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

(g) The provisions of this section do not limit or restrict the prosecution for other offenses arising out of the same conduct, nor shall they limit or restrict defenses under common law. (Added 2017, No. 86 (Adj. Sess.), § 8; amended 2018, No. 8 (Sp. Sess.), § 14, eff. July 2, 2018; 2019, No. 167 (Adj. Sess.), § 4, eff. Oct. 7, 2020.)

§ 4230g. Dispensing cannabis to a person under 21 years of age; civil action for damages

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

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

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

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

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

(f) A person who knowingly dispenses cannabis to a person under 21 years of age or who enables consumption of cannabis by a person under 21 years of age may be held liable under this section if the person knew, or a reasonable person in the same circumstances would have known, that the person who received the cannabis was under 21 years of age. (Added 2017, No. 86 (Adj. Sess.), § 9.)

- **§ 4230j. Cannabis possession by a person under 16 years of age; delinquency**

A person under 16 years of age who engages in conduct in violation of subdivision 4230b of this title commits a delinquent act and shall be subject to 33 V.S.A. chapter 52. The person shall be provided the opportunity to participate in the Court Diversion Program. (Added 2019, No. 167 (Adj. Sess.), § 7, eff. Oct. 7, 2020.)

- **§ 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 10 years or fined not more than \$250,000.00, or both.

(4) [Repealed.]

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing 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 dispensing 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 10 years or fined not more than \$250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing 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.

(c)(1) Trafficking. A person knowingly and unlawfully possessing cocaine in an amount consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine with the intent to sell or dispense the cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses cocaine in an amount consisting of 150 grams or more of one or more preparations, compounds, mixtures, or substances containing cocaine intends to sell or dispense the cocaine. The amount of possessed cocaine under this subdivision to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be no less than 400 grams in the aggregate.

(2) A person knowingly and unlawfully possessing crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine with the intent to sell or dispense the crack cocaine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses crack cocaine in an amount consisting of 60 grams or more of one or more preparations, compounds, mixtures, or substances containing crack cocaine intends to sell or dispense the crack cocaine. (Added 1989, No. 100, § 2; amended 2001, No. 52, § 4; 2003, No. 54, § 5; 2007, No. 187 (Adj. Sess.), § 1.)

- **§ 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 lysergic acid diethylamide in an amount consisting of 100 milligrams or more of one or more preparations, compounds, mixtures, or substances containing 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 lysergic acid diethylamide in an amount consisting of one gram or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

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

(b) Selling or dispensing.

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

(3) A person knowingly and unlawfully selling or dispensing lysergic acid diethylamide in an amount consisting of one gram or more of one or more preparations, compounds, mixtures, or substances containing lysergic acid diethylamide shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. (Added 1989, No. 100, § 3; amended 2001, No. 52, § 5.)

- **§ 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 10 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) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing 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 dispensing 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 10 years or fined not more than \$250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing 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.

(c) Trafficking. A person knowingly and unlawfully possessing heroin in an amount consisting of 3.5 grams or more of one or more preparations, compounds, mixtures, or substances containing heroin with the intent to sell or dispense the heroin shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses heroin in an amount of 3.5 grams or more of one or more preparations, compounds, mixtures, or substances containing heroin intends to sell or dispense the heroin. The amount of possessed heroin under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be no less than 10 grams in the aggregate.

(d) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting one gram or more of heroin into Vermont with the intent to sell or dispense the heroin shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both. (Added 1989, No. 100, § 4; amended 2001, No. 52, § 6; 2003, No. 54, § 6; 2007, No. 187 (Adj. Sess.), § 2; 2013, No. 195 (Adj. Sess.), § 8.)

• **§ 4233a. Fentanyl**

(a) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling fentanyl 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 dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

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

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

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both. (Added 2017, No. 62, § 4.)

- **§ 4234. Depressant, stimulant, and narcotic drugs**

(a) Possession.

(1)(A) Except as provided by subdivision (B) of this subdivision (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.

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

(2) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than heroin or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent 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 1,000 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than 10 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 10,000 times a benchmark unlawful dosage or its equivalent shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

(b) Selling or dispensing.

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

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

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

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

(2) A person under 16 years of age who knowingly and unlawfully possesses 224 milligrams or less of buprenorphine commits a delinquent act and shall be subject to the provisions of section 4230j of this title. (Added 1989, No. 100, § 5; amended 2001, No. 52, § 7; 2009, No. 25, § 14; 2017, No. 62, § 5; 2021, No. 46, § 2, eff. June 1, 2021; 2021, No. 46, § 3, eff. July 1, 2023; 2023, No. 53, § 117, eff. July 2, 2023.)

- **§ 4234a. Methamphetamine**

(a) Possession.

(1) A person knowingly and unlawfully possessing methamphetamine 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 methamphetamine in an amount consisting of 2.5 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine 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 methamphetamine in an amount consisting of 25 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

(b) Selling and dispensing.

(1) A person knowingly and unlawfully dispensing methamphetamine shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling methamphetamine 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 dispensing methamphetamine in an amount consisting of 2.5 grams or more of one or more preparations, compounds, mixtures, or substances

containing methamphetamine shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

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

(c) Trafficking. A person knowingly and unlawfully possessing methamphetamine in an amount consisting of 300 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine with the intent to sell or dispense the methamphetamine shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses methamphetamine in an amount consisting of 300 grams or more of one or more preparations, compounds, mixtures, or substances containing methamphetamine intends to sell or dispense the methamphetamine. The amount of possessed methamphetamine under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be no less than 800 grams in the aggregate. (Added 2003, No. 54, § 7.)

- **§ 4234b. Ephedrine and pseudoephedrine**

(a) Possession.

(1) No person shall knowingly and unlawfully possess a drug product containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base with the intent to use the product as a precursor to manufacture methamphetamine or another controlled substance.

(2) A person who violates this subsection shall:

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

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

(b) Sale.

(1) A drug product containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base shall not be distributed at retail to the general public unless it is maintained in a locked display case or behind the counter out of the public's reach.

(2)(A) A retail establishment shall not knowingly complete a sale to a person if the drug product or combination of drug products purchased would surpass a total of more than 3.6 grams within a 24-hour period or nine grams within a 30-day period of ephedrine base, pseudoephedrine base, or phenylpropanolamine base or their isomers.

(B) This subdivision shall not apply to drug products dispensed pursuant to a valid prescription.

(3) A person or business that violates this subdivision shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00; and

(B) for a second and subsequent violation be assessed a civil penalty of not more than \$500.00.

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.

(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid, government-issued identification document. The retail establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible in that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLeX or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) A person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than \$500.00.

(d) This section shall not apply to a manufacturer that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

(e) As used in this section:

(1) "Distributor" means a person, other than a manufacturer or wholesaler, that sells, delivers, transfers, or in any manner furnishes a drug product to any person that is not the ultimate user or consumer of the product.

(2) "Knowingly" means having actual knowledge of the relevant facts.

(3) "Manufacturer" means a person that produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) "Wholesaler" means a person, other than a manufacturer, that sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold. (Added 2005, No. 164 (Adj. Sess.), § 2, eff. Sept. 30, 2006; amended 2013, No. 75, § 19, eff. Oct. 1, 2013; 2013, No. 75, § 19a, eff. Sept. 30, 2016; 2017, No. 62, § 7, eff. June 7, 2017; 2017, No. 113 (Adj. Sess.), § 82.)

- **§ 4235. Hallucinogenic drugs**

(a) "Dose" of a hallucinogenic drug means that minimum amount of a hallucinogenic drug, not commonly used for therapeutic purposes, that causes a substantial hallucinogenic effect. The Department of Health shall adopt rules that establish doses for hallucinogenic drugs. The Department 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 10 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 10 years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing 1,000 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) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than three years or fined not 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 dispensing 10 or more doses of a hallucinogenic drug, other than lysergic acid diethylamide, shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing 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. (Added 1989, No. 100, § 6; amended 2001, No. 52, § 8; 2023, No. 53, § 118, eff. June 8, 2023.)

• **§ 4235a. Ecstasy**

(a) Possession.

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

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

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing Ecstasy shall be imprisoned not more than three years or fined not more than \$25,000.00, or both. A person knowingly and unlawfully selling Ecstasy 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 dispensing Ecstasy in an amount consisting of two grams or more of one or more preparations, compounds, mixtures, or substances containing Ecstasy shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing Ecstasy in an amount consisting of 20 grams or more of one or more preparations, compounds, mixtures, or substances containing Ecstasy shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both. (Added 2001, No. 52, § 9.)

• **§ 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 cannabis. (Added 1989, No. 100, § 7.)

• **§ 4237. Selling or dispensing to minors; selling on school grounds**

(a) Dispensing regulated drugs to minors. A person knowingly and unlawfully dispensing any regulated drug to a minor who is at least three years that person's junior shall be sentenced to a term of imprisonment of not more than five years.

(b) Sale of regulated drugs. A person knowingly and unlawfully selling any regulated drug to a minor shall, in addition to any other penalty, be sentenced to a term of imprisonment of not more than 10 years.

(c) Selling on school grounds. No person shall knowingly and unlawfully:

(1) dispense or sell a regulated drug to any person on a school bus or on real property owned by a public or private elementary, secondary, or vocational school;

(2) sell a regulated drug to any person on real property abutting real property owned by a public or private elementary, secondary, or vocational school; or

(3) dispense a regulated drug to any person in public view on real property abutting real property owned by a school.

(d) Abutting school property. The selling or dispensing of a regulated drug to a person on property abutting school property is a violation under this section only if it occurs within 500 feet of the school property. Property shall be considered abutting school property if:

(1) it shares a boundary with school property; or

(2) it is adjacent to school property and is separated only by a river, stream, or public highway.

(e) Penalty. A person who violates subsection (c) of this section shall, in addition to any other penalty, be sentenced to a term of imprisonment of not more than 10 years.

(f) Definitions. As used in this section:

(1) "Minor" means a person under the age of 18.

(2) "Owned by a school" means owned, leased, controlled, or subcontracted by a school and used frequently by students for educational or recreational activities. (Added 1989, No. 100, § 8; amended 2001, No. 52, § 10; 2003, No. 54, § 8; 2017, No. 113 (Adj. Sess.), § 83.)

- **§ 4238. Second and subsequent offenses**

A person convicted of a second or subsequent offense of violating section 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. (Added 1989, No. 100, § 9.)

Subchapter 003: Miscellaneous

- **§ 4254. Immunity from liability**

(a) As used in this section:

(1) "Drug overdose" means an acute condition resulting from or believed to be resulting from the use of a regulated drug that a layperson would reasonably believe requires medical assistance. For purposes of this section, "regulated drug" shall include alcohol.

(2) "Medical assistance" means professional services provided to a person experiencing a drug overdose by a health care professional licensed, registered, or certified under State law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment, or emergency services for a person experiencing a drug overdose.

(3) "Seeks medical assistance" shall include providing care to someone who is experiencing a drug overdose while awaiting the arrival of medical assistance to aid the overdose victim.

(b) A person who, in good faith and in a timely manner, seeks medical assistance for someone who is experiencing a drug overdose shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under 21 years of age pursuant to 7 V.S.A. § 656 or for providing to or enabling consumption of alcohol by someone under 21 years of age pursuant to 7 V.S.A. § 658(a)-(c).

(c) A person who is experiencing a drug overdose and, in good faith, seeks medical assistance for himself or herself or is the subject of a good faith request for medical assistance shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under 21 years of age pursuant to 7 V.S.A. § 656 or for providing to or enabling consumption of alcohol by someone under 21 years of age pursuant to 7 V.S.A. § 658(a)-(c).

(d) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any of the penalties for violation of 13 V.S.A. § 1030 (violation of a protection order), for a violation of this chapter or 7 V.S.A. § 656, for being at the scene of the drug overdose or for being within close proximity to any person at the scene of the drug overdose.

(e) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of

this chapter or 7 V.S.A. § 656 for being at the scene of the drug overdose or for being within close proximity to any person at the scene of the drug overdose.

(f) The act of seeking medical assistance for or by someone who is experiencing a drug overdose shall be considered a mitigating circumstance at sentencing for a violation of any other offense.

(g) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person's seeking medical assistance for a drug overdose, being the subject of a good faith request for medical assistance, being at the scene, or being within close proximity to any person at the scene of the drug overdose for which medical assistance was sought and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

(h) A person who seeks medical assistance for a drug overdose pursuant to subsection (b) or (c) of this section shall not be subject to the provisions of subchapter 2 of this chapter concerning property subject to forfeiture, except that prima facie contraband shall be subject to forfeiture.

(i) Except in cases of reckless or intentional misconduct, law enforcement shall be immune from liability for citing or arresting a person who is later determined to qualify for immunity under this section. (Added 2013, No. 71, § 2, eff. June 5, 2013; amended 2013, No. 195 (Adj. Sess.), § 17; 2017, No. 83, § 148.)

[Title 7: Alcoholic Beverages, Cannabis, and Tobacco](#)

[Chapter 021: Penalties](#)

- **§ 656. Person 16 years of age or older and under 21 years of age misrepresenting age, procuring, possessing, or consuming alcoholic beverages; civil violation**

(a) Prohibited conduct; offense.

(1) Prohibited conduct. A person 16 years of age or older and under 21 years of age shall not:

(A) Falsely represent the person's age for the purpose of procuring or attempting to procure malt or vinous beverages, ready-to-drink spirits beverages, spirits, or fortified wines from any licensee, State liquor agency, or other person or persons.

(B) Possess malt or vinous beverages, ready-to-drink spirits beverages, spirits, or fortified wines for the purpose of consumption by the person or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor.

(C) Consume malt or vinous beverages, ready-to-drink spirits beverages, spirits, or fortified wines. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages, ready-to-drink spirits beverages, spirits, or fortified wines or in a jurisdiction where the indicators of consumption are observed.

(2) Offense. A person who knowingly violates subdivision (1) of this subsection commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the

Youth Substance Awareness Safety Program. A person who fails to complete the program successfully shall be subject to:

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

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

(b) Issuance of notice of violation. A law enforcement officer shall issue a person who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;

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

(4) the person shall notify the Diversion Program if the person's address changes.

(c) Summons and complaint. When a person is issued a notice of violation under this section, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

(d) Registration in Youth Substance Abuse Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Abuse Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(e) Notice to report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse assessment or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the

person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse assessment or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(f) Diversion Program requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense that the Diversion Program has imposed, the Diversion Program shall:

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

(B) send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information that identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(g) [Repealed.]

(h) Record of adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such

adjudications that shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section. (Added 1999, No. 160 (Adj. Sess.), § 8; amended 2003, No. 52, § 2, eff. Oct. 1, 2003; 2013, No. 76, § 9; 2015, No. 147 (Adj. Sess.), § 6, eff. May 31, 2016; 2019, No. 167 (Adj. Sess.), § 5, eff. Oct. 7, 2020; 2021, No. 20, § 6; 2021, No. 177 (Adj. Sess.), § 30, eff. July 1, 2022.)

- **§ 657a. Person under 16 years of age misrepresenting age or procuring or possessing alcoholic beverages; delinquency**

A person under 16 years of age who engages in conduct in violation of subdivision 656(a)(1) of this title commits a delinquent act and shall be subject to 33 V.S.A. chapter 52. The person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. (Added 2013, No. 76, § 10.)

- **§ 658. Sale or furnishing to minors; enabling consumption by minors; minors causing death or serious bodily injury**

(a) A person shall not:

(1) sell or furnish alcoholic beverages to a person under 21 years of age; or

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

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

(c) A person who violates subsection (a) of this section shall be fined not less than \$500.00 nor more than \$2,000.00 or imprisoned not more than two years, or both. However, an employee of a licensee or an employee of a State liquor agency, who in the course of employment violates subdivision (a)(1) of this section:

(1) during a compliance check conducted by a law enforcement officer as defined in 20 V.S.A. § 2358:

(A) shall be assessed a civil penalty of not more than \$100.00 for the first violation and a civil penalty of not less than \$100.00 nor more than \$1,000.00 for a second violation that occurs more than one year after the first violation; and

(B) shall be subject to the criminal penalties provided in this subsection (c) for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(2) may plead as an affirmative defense that:

(A) the purchaser exhibited and the employee carefully viewed photographic identification that complied with section 589 of this title and indicated the purchaser to be 21 years of age or older;

(B) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(C) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase alcoholic beverages.

(d)(1) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle, snowmobile, vessel, or all-terrain vehicle on a public highway, public land, or public waters, or in a place where a Vermont Association of Snow Travelers (VAST) trail maintenance assessment or a Vermont ATV Sportsman's Association (VASA) Trail Access Decal is required, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(2) As used in this subsection:

(A) "All-terrain vehicle" shall have the same meaning as set forth in 23 V.S.A. § 3501.

(B) "Public land" means all land in Vermont that is either owned or controlled by a local, State, or federal governmental body.

(C) "Public waters" shall have the same meaning as in 10 V.S.A. § 1422.

(D) "Snowmobile" shall have the same meaning as set forth in 23 V.S.A. § 3201.

(E) "Vessel" shall have the same meaning as set forth in 23 V.S.A. § 3302. (Amended 1981, No. 246 (Adj. Sess.), § 3; 1997, No. 117 (Adj. Sess.), § 5; 1999, No. 163 (Adj. Sess.), § 1; 2001, No. 63, § 65a, eff. June 16, 2001; 2017, No. 83, § 114; 2017, No. 158 (Adj. Sess.), § 16, eff. May 21, 2018; 2019, No. 73, § 12.)

- **§ 1005. Persons under 21 years of age; possession of tobacco products; misrepresenting age or purchasing tobacco products; penalty**

(a)(1) A person under 21 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless:

(A) the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment; or

(B) the person is in possession of tobacco products or tobacco paraphernalia in connection with Indigenous cultural tobacco practices.

(2) A person under 21 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia.

(b) A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of subsection (a) of this section shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24.

(c) A person under 21 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than \$50.00 or provide up to 10 hours of community service, or both. (Added 1991, No. 70, § 2, eff. May 1, 1992; amended 1997, No. 58, § 5; 1997, No. 121 (Adj. Sess.), § 26; 2013, No. 14, § 5; 2015, No. 147

(Adj. Sess.), § 10, eff. May 31, 2016; 2017, No. 83, § 135; 2019, No. 27, § 3, eff. Sept. 1, 2019; 2023, No. 46, § 30, eff. June 5, 2023.)

- **§ 1007. Furnishing tobacco to persons under 21 years of age; report**

(a) A person that sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under 21 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

(b)(1) The Division of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to persons under 21 years of age of at least 90 percent for buyers who are between 17 and 20 years of age. An individual under 21 years of age participating in a compliance test shall not be in violation of section 1005 of this title.

(2) Any violation by a tobacco licensee of subsection 1003(a) of this title and this section after a sale violation or during a compliance test conducted within six months of a previous violation shall be considered a multiple violation and shall result in the minimum license suspension in addition to any other penalties available under this title. Minimum license suspensions for multiple violations shall be assessed as follows:

- (A) two violations two weekdays;
- (B) three violations 15-day suspension;
- (C) four violations 90-day suspension;
- (D) five violations one-year suspension.

(3) The Division shall report to the House Committee on General, Housing, and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the Tobacco Evaluation and Review Board annually, on or before January 15, the methodology and results of compliance tests conducted during the previous year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision. (Added 1991, No. 70, § 2; amended 1997, No. 58, § 6; 2013, No. 14, § 6; 2015, No. 131 (Adj. Sess.), § 2; 2017, No. 83, § 137; 2018, No. 1 (Sp. Sess.), § 85; 2019, No. 27, § 5, eff. Sept. 1, 2019; 2019, No. 73, § 16.)

[Title 23: Motor Vehicles](#)

[Chapter 013: Operation of Vehicles](#)

[Subchapter 013: Drunken Driving](#)

- **§ 1201. Operating vehicle under the influence of alcohol or other substance; criminal refusal; enhanced penalty for BAC of 0.16 or more**

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person's alcohol concentration is:

(A) 0.08 or more; or

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial vehicle as defined in subdivision 4103(4) of this title; or

(2) when the person is under the influence of alcohol; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug.

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in a crash or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol or drugs in his or her system.

(d)(1) A person who is convicted of a second or subsequent violation of subsection (a), (b), or (c) of this section when the person's alcohol concentration is proven to be 0.16 or more shall not, for three years from the date of the conviction for which the person's alcohol concentration is 0.16 or more, operate, attempt to operate, or be in actual physical control of any vehicle on a highway when the person's alcohol concentration is 0.02 or more. The prohibition imposed by this subsection shall be in addition to any other penalties imposed by law.

(2) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway when the person's alcohol concentration is 0.02 or more if the person has previously been convicted of a second or subsequent violation of subsection (a), (b), or (c) of this section within the preceding three years and the person's alcohol concentration for the second or subsequent violation was proven to be 0.16 or greater. A violation of this subsection shall be considered a third or subsequent violation of this section and shall be subject to the penalties of subsection 1210(d) of this title.

(e) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this State shall not constitute a defense against any charge of violating this section.

(f) A person may not be convicted of more than one violation of subsection (a) of this section arising out of the same incident.

(g) For purposes of this section and section 1205 of this title, the defendant may assert as an affirmative defense that the person was not operating, attempting to operate, or in actual physical control of the vehicle because the person:

(1) had no intention of placing the vehicle in motion; and

(2) had not placed the vehicle in motion while under the influence.

(h) As used in subdivision (a)(3) of this section, “under the influence of a drug” means that a person’s ability to operate a motor vehicle safely is diminished or impaired in the slightest degree. This subsection shall not be construed to affect the meaning of the term “under the influence of alcohol.”

(i) Evidence of the results of a standardized field sobriety test conducted by a law enforcement officer trained in Advanced Roadside Impaired Driving Enforcement or a certified Drug Recognition Expert’s systematic evaluation of observable signs and symptoms of a person charged with a violation of this section shall be presumptively admissible at trial to demonstrate whether or not the person was operating under the influence in violation of this section. (Added 1969, No. 267 (Adj. Sess.), § 1; amended 1973, No. 16, § 1, eff. March 1, 1973; 1973, No. 79, § 1, eff. May 23, 1973; 1975, No. 10, § 2, eff. April 9, 1975; 1981, No. 103, §§ 2, 2a; 1983, No. 212 (Adj. Sess.), § 5; 1989, No. 68, § 2, eff. Dec. 1, 1989; 1991, No. 55, § 2; 1997, No. 56, § 1, eff. Aug. 1, 1997; 1999, No. 116 (Adj. Sess.), § 2; 1999, No. 160 (Adj. Sess.), § 15; 2001, No. 146 (Adj. Sess.), § 1; 2005, No. 37, § 1; 2007, No. 195 (Adj. Sess.), § 4; 2011, No. 56, § 3; 2013, No. 169 (Adj. Sess.), § 1, eff. June 3, 2014; 2017, No. 83, § 161(4); 2019, No. 59, § 27; 2019, No. 164 (Adj. Sess.), § 22, eff. Jan. 1, 2022.)

- **§ 1202. Consent to taking of tests to determine blood alcohol content or presence of other drug**

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person’s breath for the purpose of determining the person’s alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of blood. If in the officer’s opinion the person is incapable of decision or unconscious or dead, it is deemed that the person’s consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision (2) shall be obtained pursuant to subsection (f) of this section.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, or under the combined influence of alcohol and a drug, the person is deemed to have given consent to providing of an evidentiary sample of saliva. A saliva test sought pursuant to this subdivision (3) shall be obtained pursuant to subsection (f) of this section. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person’s body and shall not be used to extract DNA information.

(4) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has

reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

(b) A refusal to take a breath test may be introduced as evidence in a criminal proceeding.

(c) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has a right as limited in this subsection to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and not later than 30 minutes after the time of the initial attempt to contact the attorney. The person must make a decision about whether to submit to the test or tests at the expiration of the 30 minutes, regardless of whether a consultation took place.

(d) At the time a test is requested, the person shall be informed of the following statutory information:

(1) Vermont law authorizes a law enforcement officer to request a test to determine whether the person is under the influence of alcohol or other drug.

(2) If the officer's request is reasonable and testing is refused, the person's license or privilege to operate will be suspended for at least six months.

(3) If a test is taken and the results indicate that the person is under the influence of alcohol or other drug, the person will be subject to criminal charges and the person's license or privilege to operate will be suspended for at least 90 days.

(4) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has the limited right to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and not later than 30 minutes from the time of the initial attempt to contact the attorney, regardless of whether a consultation took place. The person also has the right to have additional tests made by someone of the person's own choosing at the person's own expense. The person shall also be informed of the location of one or more facilities available for drawing blood.

(5) A person who is requested by a law enforcement officer to submit to an evidentiary test administered with an infrared breath-testing instrument may elect to have a second infrared test administered immediately after receiving the results of the first test.

(6) If the person refuses to take an evidentiary test, the refusal may be offered into evidence against the person at trial, whether or not a search warrant is sought. The person may be charged with the crime of criminal refusal if the person:

(A) has previously been convicted of a violation of section 1201 of this title; or

(B) is involved in a crash or collision resulting in serious bodily injury or death to another, in which case the court may issue a search warrant and order the person to submit to a blood test, the results of which may be offered into evidence against the person at trial.

(e) In any proceeding under this subchapter, a law enforcement officer's testimony that he or she is certified pursuant to section 20 V.S.A. § 2358 shall be prima facie evidence of that fact.

(f)(1) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in a crash or collision resulting in serious bodily injury or death to another

refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. Pursuant to subdivision (d)(6) of this section, if a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

(2) If an evidentiary saliva test is sought from a person pursuant to subdivision (a)(3) of this section, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of saliva for the evidentiary test. Pursuant to subdivision (d)(6) of this section, if a saliva sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test.

(g) The Defender General shall provide statewide 24-hour coverage seven days a week to ensure that adequate legal services are available to persons entitled to consult an attorney under this section. (Added 1969, No. 267 (Adj. Sess.), § 2; amended 1973, No. 79, § 2, eff. May 23, 1973; 1977, No. 96, eff. May 5, 1977; 1981, No. 103, § 3; 1985, No. 228 (Adj. Sess.), § 3; 1989, No. 68, § 3, eff. Dec. 1, 1989; 1991, No. 55, § 3; 1991, No. 57, § 2, eff. July 4, 1991; 1997, No. 56, §§ 2, 3, eff. Aug. 1, 1997; 1997, No. 117 (Adj. Sess.), § 14; 1999, No. 160 (Adj. Sess.), § 16; 2001, No. 146 (Adj. Sess.), § 2; 2017, No. 62, § 9; 2017, No. 132 (Adj. Sess.), § 14; 2019, No. 164 (Adj. Sess.), § 23.)

- **§ 1205. Civil suspension; summary procedure**

(a) Refusal; alcohol concentration above legal limits; suspension periods.

(1) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, the Commissioner shall suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of six months and until the person complies with section 1209a of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title.

(2) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was above a limit specified in subsection 1201(a) of this title, at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the person complies with section 1209a of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title.

(3) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of subdivision 1201(d)(2) of this title and that the person submitted to a test and the test

results indicated that the person's alcohol concentration was 0.02 or more at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for life. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

(b) Form of officer's affidavit. A law enforcement officer's affidavit in support of a suspension under this section shall be in a standardized form for use throughout the State and shall be sufficient if it contains the following statements:

(1) The officer is a certified law enforcement officer.

(2) The officer who administered the test was certified to operate the testing equipment.

(3) The officer had reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title (noting the time and date of operating, attempting to operate, or being in actual physical control).

(4) The officer informed the person of his or her rights under subsection 1202(d) of this title.

(5) The officer obtained an evidentiary test (noting the time and date the test was taken) and the test indicated that the person's alcohol concentration was above a legal limit specified in subsection 1201(a) or (d) of this title, or the person refused to submit to an evidentiary test.

(6) The officer complied with the Soldiers and Sailors Civil Relief Act (50 U.S.C. § 501 et seq.).

(7) The officer confirmed the person's correct mailing address.

(c) Notice of suspension. On behalf of the Commissioner of Motor Vehicles, a law enforcement officer requesting or directing the administration of an evidentiary test shall serve notice of intention to suspend and of suspension on a person who refuses to submit to an evidentiary test or on a person who submits to a test the results of which indicate that the person's alcohol concentration was above a legal limit specified in subsection 1201(a) or (d) of this title, at the time of operating, attempting to operate, or being in actual physical control of a vehicle in violation of section 1201 of this title. The notice shall be signed by the law enforcement officer requesting the test. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, and a copy shall be mailed or given to the defendant within three business days of the date the officer receives the results of the test. If mailed, the notice is deemed received three days after mailing to the address provided by the defendant to the law enforcement officer. A copy of the affidavit of the law enforcement officer shall also be mailed first-class mail or given to the defendant within seven days of the date of notice.

(d) Form of notice. The notice of intention to suspend and of suspension shall be in a form prescribed by the Supreme Court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time, and location of the Criminal Division of the Superior Court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

(1) You have the right to ask for a hearing to contest the suspension of your operator's license.

(2) This notice shall serve as a temporary operator's license and is valid until 12:01 a.m. of the date of suspension. If this is your first violation of section 1201 of this title and if you do not request a

hearing, your license will be suspended as provided in this notice. If this is your second or subsequent violation of section 1201 of this title, your license will be suspended on the 11th day after you receive this notice. It is a crime to drive while your license is suspended unless you have been issued an ignition interlock restricted driver's license or ignition interlock certificate.

(3) If you wish to request a hearing before the Criminal Division of the Superior Court, you must mail or deliver your request for a hearing within seven days after (date of notice).

(4) If your request for a hearing is not mailed or delivered within seven days after (date of notice), you waive your right to a hearing and your license will be suspended as provided in this notice.

(5) In order to request a hearing, sign the attached form and mail or deliver the form to the Commissioner of Motor Vehicles at the address shown.

(6) If you are charged with a second or subsequent violation of section 1201 of this title, no person shall sell, transfer, or encumber the title to a vehicle that may be subject to immobilization or forfeiture, unless approved by the court in which the charge is filed for good cause shown.

(e) Effective date of suspension.

(1) First offense. Unless a hearing is requested, a suspension under this section of the license of a person who the officer has reasonable grounds to believe violated section 1201 of this title a first time becomes effective on the 11th day after the person receives notice or is deemed to have received notice under subsection (c) of this section. If a hearing is requested, a suspension shall not become effective unless the court orders a suspension after hearing as provided in this section.

(2) Second or subsequent offense. A suspension of a person's license under this section shall become effective on the 11th day after the person receives notice or is deemed to have received notice under subsection (c) of this section if:

(A) the officer has reasonable grounds to believe the person has violated section 1201 of this title; and

(B) within the last 20 years, the person has:

(i) had his or her operator's license suspended pursuant to this section; or

(ii) been convicted of a violation of section 1201 of this title.

(f) Review by Superior Court. Within seven days following receipt of a notice of intention to suspend and of suspension, a person may make a request for a hearing before the Superior Court by mailing or delivering the form provided with the notice. The request shall be mailed or delivered to the Commissioner of Motor Vehicles, who shall then notify the Criminal Division of the Superior Court that a hearing has been requested and provide the State's Attorney with a copy of the notice of intention to suspend and of suspension and the officer's affidavit.

(g) Preliminary hearing. The preliminary hearing shall be held within 21 days of the alleged offense. Unless impracticable or continued for good cause shown, the date of the preliminary hearing shall be the same as the date of the first appearance in any criminal case resulting from the same incident for which the person received a citation to appear in court. The preliminary hearing shall be held in accordance with procedures prescribed by the Supreme Court.

(h) Final hearing.

(1) If the defendant requests a hearing on the merits, the court shall schedule a final hearing on the merits to be held within 21 days of the date of the preliminary hearing. In no event may a final hearing occur more than 42 days after the date of the alleged offense without the consent of the defendant or for good cause shown. The final hearing may only be continued by the consent of the defendant or for good cause shown. The issues at the final hearing shall be limited to the following:

(A) Whether the law enforcement officer had reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(B) Whether at the time of the request for the evidentiary test the officer informed the person of the person's rights and the consequences of taking and refusing the test substantially as set out in subsection 1202(d) of this title.

(C) Whether the person refused to permit the test.

(D) Whether the test was taken and the test results indicated that the person's alcohol concentration was above a legal limit specified in subsection 1201(a) or (d) of this title, at the time of operating, attempting to operate, or being in actual physical control of a vehicle in violation of section 1201 of this title, whether the testing methods used were valid and reliable, and whether the test results were accurate and accurately evaluated. Evidence that the test was taken and evaluated in compliance with rules adopted by the Department of Public Safety shall be prima facie evidence that the testing methods used were valid and reliable and that the test results are accurate and were accurately evaluated.

(E) Whether the requirements of section 1202 of this title were complied with.

(2) No less than seven days before the final hearing, and subject to the requirements of Vermont Rule of Civil Procedure 11, the defendant shall provide to the State and file with the court a list of the issues (limited to the issues set forth in this subsection) that the defendant intends to raise. Only evidence that is relevant to an issue listed by the defendant may be raised by the defendant at the final hearing. The defendant shall not be permitted to raise any other evidence at the final hearing, and all other evidence shall be inadmissible.

(i) Finding by the court. The court shall electronically forward a report of the hearing to the Commissioner. Upon a finding by the court that the law enforcement officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, or upon a finding by the court that the law enforcement officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was above a legal limit specified in subsection 1201(a) or (d) of this title, at the time the person was operating, attempting to operate, or in actual physical control, the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle shall be suspended or shall remain suspended for the required term and until the person complies with section 1209a of this title. Upon a finding in favor of the person, the Commissioner shall cause the suspension to be canceled and removed from the record, without payment of any fee.

(j) Venue and conduct of hearings. Venue for proceedings under this section shall be in the territorial unit of the Superior Court where the offense is alleged to have occurred. Hearings under this section shall be summary proceedings conducted by the Criminal Division of the Superior Court without a jury and shall be subject to the Vermont Rules of Civil Procedure only as consistent with this section. The State has the burden of proof by a preponderance of the evidence. Affidavits of law enforcement officers, chemists of either party, or expert witnesses of either party shall be admissible evidence, which may be rebutted by witnesses called by either party. The affidavits shall be delivered to the other party at least five days prior to the hearing.

(k) Appeal. A decision of the Criminal Division of the Superior Court under this section may be appealed as a matter of right to the Supreme Court. The suspension shall not be stayed pending appeal unless the defendant is reasonably likely to prevail on appeal.

(l) Access to information. In connection with a proceeding under this section, the operator shall have access to all written statements and information in the possession and control of the State concerning the evidentiary test or tests, including the police report, processing forms, certification and affidavit, breath test results, police notes, and the names and addresses of witnesses. If the operator intends to rely on the independent analysis, the State shall have access to the test results from the independent analysis and names and addresses of all witnesses. No depositions or written interrogatories shall be permitted except in extraordinary circumstances.

(m) Second and subsequent suspensions. For a second suspension under this subchapter, the period of suspension shall be 18 months and until the person complies with section 1209a of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title. For a third or subsequent suspension under this subchapter, the period of suspension shall be life. However, during this lifetime suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

(n) Presumption. In a proceeding under this section, if at any time within two hours of operating, attempting to operate, or being in actual physical control of a vehicle a person had an alcohol concentration of above a legal limit specified in subsection 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's alcohol concentration was above the applicable limit at the time of operating, attempting to operate, or being in actual physical control.

(o) Use immunity. No testimony or other information presented by the defendant in connection with a proceeding under this section or any information directly or indirectly derived from such testimony or other information, may be used for any purpose, including impeachment and cross-examination, against the defendant in any criminal case, except a prosecution for perjury or giving a false statement.

(p) Suspensions to run concurrently. Suspensions imposed under this section or any comparable statute of any other jurisdiction and sections 1206, 1208, and 1216 of this title or any comparable statutes of any other jurisdiction, or any suspension resulting from a conviction for a violation of section 1091 of this title from the same incident, shall run concurrently and a person shall receive credit for any elapsed period of a suspension served in Vermont against a later suspension imposed in this State.

(q) Rules. The Supreme Court shall adopt rules ensuring the fairness of proceedings under this section.

(r) Surcharge; Public Defender Special Fund; DUI Enforcement Special Fund. A person suspended under this section for a refusal shall be assessed a surcharge of \$50.00 that shall be collected by the Department of Motor Vehicles prior to reinstatement of the person's driving privileges. The Department shall transfer the surcharge assessed under this subsection to the Public Defender Special Fund created in 13 V.S.A. § 5239 specifying the source of the monies being deposited. All such monies shall be used by the Office of the Defender General to cover the cost of providing statewide 24-hour legal services coverage as required by subsection 1202(g) of this title. After \$40,000.00 has been deposited in the Public Defender Special Fund in a single fiscal year, all additional collected surcharges assessed under this subsection in that fiscal year shall be credited to the Governor's Highway Safety Commission for deposit in a DUI Enforcement Special Fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5. All such DUI Enforcement Special Fund receipts shall be used exclusively for statewide DUI enforcement and for no other purpose.

(s) [Repealed.]

(t) Nonmandatory time limits. For a first offense, the time limits set forth in subsections (g) and (h) of this section are directive only and shall not be interpreted by the court to be mandatory or jurisdictional.

(u) Testimony by telephone. In any proceeding under this section, for cause shown, a party's chemist may be allowed to testify by telephone in lieu of a personal appearance. (Added 1969, No. 267 (Adj. Sess.), § 5; amended 1971, No. 14, § 9, eff. March 11, 1971; 1973, No. 79, § 5, eff. May 23, 1973; 1975, No. 103, § 2, eff. May 30, 1975; 1979, No. 58, § 1; 1981, No. 103, § 6; 1983, No. 134 (Adj. Sess.), § 4; 1989, No. 68, § 5, eff. Dec. 1, 1989; 1991, No. 55, § 6; 1995, No. 77 (Adj. Sess.), § 8, eff. March 21, 1996; 1995, No. 112 (Adj. Sess.), § 12, eff. April 22, 1996; 1997, No. 56, §§ 4, 7, eff. Aug. 1, 1997; 1997, No. 117 (Adj. Sess.), § 16; 1999, No. 160 (Adj. Sess.), § 18, eff. May 29, 2000; 2001, No. 146 (Adj. Sess.), § 3; 2009, No. 126 (Adj. Sess.), § 4, eff. July 1, 2011; 2009, No. 154 (Adj. Sess.), § 160; 2011, No. 46, § 8, eff. July 2, 2011; 2011, No. 56, §§ 4, 16, eff. March 1, 2012; 2011, No. 90 (Adj. Sess.), § 7; 2013, No. 57, § 19; 2015, No. 158 (Adj. Sess.), § 49; 2019, No. 32, § 8; 2019, No. 131 (Adj. Sess.), § 191.)

- **§ 1206. Suspension of license for driving while under influence; first conviction**

(a) First conviction—generally. Except as otherwise provided, upon conviction of a person for violating a provision of section 1201 of this title, or upon final determination of an appeal, the court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the defendant complies with section 1209a of this title.

(b) Extended suspension—fatality or serious bodily injury. In cases resulting in a fatality or serious bodily injury to a person other than the defendant, the period of suspension shall be one year and until the defendant complies with section 1209a of this title.

(c) Operation during suspension. During a suspension under this section, an eligible person may operate a motor vehicle under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title. (Added 1969, No. 267 (Adj. Sess.), § 6; amended 1973, No. 79, § 6, eff. May 23, 1973; 1975, No. 103, § 3, eff. May 30, 1975; 1979, No. 58, § 2; 1981, No. 103, § 7; 1983, No. 134 (Adj. Sess.), § 5; 1999, No. 160 (Adj. Sess.), § 19; 2009, No. 126 (Adj. Sess.), § 5, eff. July 1, 2011; 2011, No. 90 (Adj. Sess.), § 3; 2015, No. 158 (Adj. Sess.), § 50; 2019, No. 131 (Adj. Sess.), § 192.)

- **§ 1208. Suspensions for subsequent convictions**

(a) Second conviction. Upon a second conviction of a person violating a provision of section 1201 of this title and upon final determination of an appeal, the court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for 18 months and until the defendant complies with section 1209a of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title.

(b) Third conviction. Upon a third or subsequent conviction of a person violating a provision of section 1201 of this title and upon final determination of any appeal, the court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately revoke the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a motor vehicle for life. However, during this lifetime revocation, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title. (Added 1969, No. 267 (Adj. Sess.), § 8; amended 1973, No. 79, § 7, eff. May 23, 1973; 1975, No. 103, §§ 4, 5, eff. May 30, 1975; 1977, No. 101, § 2, eff. May 6, 1977; 1979, No. 58, § 3; 1981, No. 103, § 8; 1983, No. 134 (Adj. Sess.), § 6; 1989, No. 179 (Adj. Sess.), § 4, eff. May 14, 1990; 1991, No. 55, § 7; 1997, No. 56, § 5, eff. Aug. 1, 1997; 2009, No. 126 (Adj. Sess.), § 6, eff. July 1, 2011; 2011, No. 90 (Adj. Sess.), § 4; 2015, No. 158 (Adj. Sess.), § 51.)

- **§ 1209a. Conditions of reinstatement; alcohol and driving education; screening; therapy programs**

(a) Conditions of reinstatement. No license or privilege to operate suspended or revoked under this subchapter, except a license or privilege to operate suspended under section 1216 of this title, shall be reinstated except as follows:

(1) In the case of a first suspension, a license or privilege to operate shall be reinstated only:

(A) after the individual has successfully completed the Alcohol and Driving Education Program, at the individual's own expense, followed by an assessment of the need for further treatment by a State-designated counselor, at the individual's own expense, to determine whether reinstatement should be further conditioned on satisfactory completion of a therapy program agreed to by the individual and the Drinking Driver Rehabilitation Program Director;

(B) if the screening indicates that therapy is needed, after the individual has satisfactorily completed or shown substantial progress in completing a therapy program at the individual's own expense agreed to by the individual and the Driver Rehabilitation Program Director;

(C) if the individual elects to operate under an ignition interlock RDL or ignition interlock certificate, after the individual operates under the RDL or certificate for the applicable period set forth in subsection 1205(a) or section 1206 of this title, plus any extension of this period arising from a violation of section 1213 of this title; and

(D) if the individual has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(2) In the case of a second suspension, a license or privilege to operate shall not be reinstated until:

(A) the individual has successfully completed an alcohol and driving rehabilitation program;

(B) the individual has completed or shown substantial progress in completing a therapy program at the individual's own expense agreed to by the individual and the Driver Rehabilitation Program Director;

(C) after the individual operates under an ignition interlock RDL or ignition interlock certificate for 18 months or, in the case of someone subject to the one-year hard suspension prescribed in subdivision 1213(a)(1)(C) of this title, for one year, plus any extension of the relevant period arising from a violation of section 1213 of this title, except if otherwise provided in subdivision (4) of this subsection (a); and

(D) the individual has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(3) In the case of a third or subsequent suspension or a revocation, a license or privilege to operate shall not be reinstated until:

(A) the individual has successfully completed an alcohol and driving rehabilitation program;

(B) the individual has completed or shown substantial progress in completing a therapy program at the individual's own expense agreed to by the individual and the Driver Rehabilitation Program Director;

(C) the individual has satisfied the requirements of subsection (b) of this section; and

(D) the individual has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(4) The Commissioner shall waive a requirement under subdivision (2) of this subsection or subsection (b) of this section that an individual operate under an ignition interlock RDL or certificate prior to eligibility for reinstatement if:

(A) the individual furnishes sufficient proof as prescribed by the Commissioner that the individual is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for the term of the suspension or, in the case of suspensions or revocations for life, for a period of at least three years; or

(B) the underlying offenses arose solely from being under the influence of a drug other than alcohol.

(b) Total Abstinence Program

(1) As used in this subsection:

(A) "Drug" means:

(i) a regulated drug, as defined in 18 V.S.A. § 4201, that is used in any way other than as prescribed for a legitimate medical use in conformity with instructions from the prescriber; or

(ii) any substance or combination of substances, other than alcohol or a regulated drug, that potentially affects the nervous system, brain, or muscles of an individual so as to impair an individual's ability to drive a vehicle safely to the slightest degree.

(B) "Total abstinence" means refraining from consuming any amount of alcohol or drugs at any time, regardless of whether the alcohol or drugs are consumed by an individual when attempting to operate, operating, or in actual physical control of a vehicle.

(2)(A) Notwithstanding any other provision of this subchapter, an individual whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the Commissioner for reinstatement of the individual's driving privilege if the individual satisfies the requirements set forth in subdivision (3) of this subsection (b).

(B) The beginning date for the period of total abstinence shall be not earlier than the effective date of the suspension or revocation from which the individual is requesting reinstatement and shall not include any period during which the individual is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination, or another examination if it is approved as a preliminary screening test under this subchapter, to be conducted prior to reinstatement under this subdivision (2). The application to the Commissioner shall be accompanied by a fee of \$500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

(3) If the Commissioner or a medical review board convened by the Commissioner is satisfied by a preponderance of the evidence that the applicant has maintained total abstinence for the three years immediately preceding the application, has successfully completed a therapy program as required under this section, and has operated under a valid ignition interlock RDL or under an ignition interlock certificate for at least three years following the suspension or revocation, and the applicant provides a written acknowledgment that the applicant must maintain total abstinence at all times while participating in the Total Abstinence Program, the applicant's license or privilege to operate shall be reinstated immediately, subject to the condition that the applicant's suspension or revocation will be put back in effect in the event any further investigation reveals a failure to maintain total abstinence and to any additional conditions as the Commissioner may impose to advance the public interest in public safety. The requirement to operate under an ignition interlock RDL or ignition interlock certificate shall not apply if the applicant is exempt under subdivision (a)(4) of this section.

(4) If after notice and an opportunity for a hearing the Commissioner later finds that the individual was violating the conditions of the individual's reinstatement under this subsection, the individual's operating license or privilege to operate shall be immediately suspended or revoked for life.

(5) If the Commissioner finds that an individual reinstated under this subsection is suspended pursuant to section 1205 of this title or is convicted of a violation of section 1201 of this title subsequent to reinstatement under this subsection, the individual shall be conclusively presumed to be in violation of the conditions of the reinstatement.

(6) An individual shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life.

(7)(A) If an applicant for reinstatement under this subsection (b) resides in a jurisdiction other than Vermont, the Commissioner may elect not to conduct an investigation. If the Commissioner elects not to conduct an investigation, the Commissioner shall provide a letter to the applicant's jurisdiction of residence stating that Vermont does not object to the jurisdiction issuing the applicant a license if the applicant is required to operate only vehicles equipped with an ignition interlock device for at least a three-year period, unless exempt under subdivision (a)(4) of this section, and is required to complete any alcohol rehabilitation or treatment requirements of the licensing jurisdiction.

(B) If the applicant's jurisdiction of residence is prepared to issue or has issued a license in accordance with subdivision (A) of this subdivision (6) and the applicant satisfies the requirements of section 675 of this title, the Commissioner shall update relevant State and federal databases to reflect that the applicant's lifetime suspension or revocation in Vermont under chapter 13, subchapter 13 of this title has terminated.

(c) Screening and therapy programs. In the case of a second or subsequent suspension, the Commissioner shall notify the individual of the requirement to enroll in the alcohol and driving education screening and therapy program provided for in this section within 30 days after license suspension. If the individual fails to enroll or fails to remain so enrolled until completion, the Drinking Driver Rehabilitation Program shall report such failure to the sentencing court. The court may order the individual to appear and show cause why the individual failed to comply.

(d) Judicial review. An individual aggrieved by a decision of a designated counselor under this section may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(e) Therapy program. A therapy program required under this section may include outpatient therapy, intensive outpatient therapy, and residential therapy. In the event that the individual and the Driver Rehabilitation Program Director cannot agree on the type of therapy required, the Criminal Division of the Superior Court shall make that determination.

(f) Fees. The Department of Health's Drinking Driver Rehabilitation Program shall assess fees for the Alcohol and Driving Education Program and the alcohol assessment screening required by subdivision (a)(1)(A) of this section. The fee for the Alcohol and Driving Education Program shall not exceed \$250.00. The fee for the alcohol assessment screening shall not exceed \$200.00. In the case of a more intensive or weekend residential program combining both the Alcohol and Driving Education Program and the alcohol assessment screening, the total charge shall not exceed \$625.00. Charges collected under this section shall be credited to separate special funds for each type of service and shall be available to the Department of Health to offset the cost of operating the Drinking Driver Rehabilitation Program. (Added 1981, No. 103, § 9; amended 1983, No. 134 (Adj. Sess.), § 7; 1985, No. 202 (Adj. Sess.), § 1; 1989, No. 68, § 6; 1989, No. 179 (Adj. Sess.), § 3, eff. May 14, 1990; 1991, No. 55, § 8; 1997, No. 55, § 7, eff. June 26, 1997; 1997, No. 56, § 8, eff. Aug. 1, 1997; 1997, No. 117 (Adj. Sess.), § 17; 1997, No. 155 (Adj. Sess.), § 63; 1999, No. 160 (Adj. Sess.), § 20; 2003, No. 109 (Adj. Sess.), § 7; 2007, No. 76, § 16; 2009, No. 23, § 1; 2009, No. 126 (Adj. Sess.), § 7, eff. July 1, 2011; 2009, No. 154 (Adj. Sess.), § 238; 2011, No. 90 (Adj. Sess.), § 5; 2013, No. 189 (Adj. Sess.), § 17; 2015, No. 50, § 16; 2015, No. 158 (Adj. Sess.), § 46; 2017, No. 71, § 14, eff. June 8, 2017; 2017, No. 206 (Adj. Sess.), § 8; 2023, No. 41, § 19, eff. June 1, 2023.)

• § 1210. Penalties

(a) Screening. Before sentencing a defendant under this section, the court may order that the defendant submit to an alcohol assessment screening. Such a screening report may be considered at sentencing in the same manner as a presentence report. At sentencing, the defendant may present relevant evidence, including the results of any independent alcohol assessment that was conducted at the person's own expense. Evidence regarding any such screening or an alcohol assessment performed at the expense of the defendant shall not be admissible for any other purpose without the defendant's consent.

(b) First offense. A person who violates section 1201 of this title may be fined not more than \$750.00 or imprisoned for not more than two years, or both.

(c) Second offense. A person convicted of violating section 1201 of this title who has been convicted of another violation of that section within the last 20 years shall be fined not more than \$1,500.00 or imprisoned not more than two years, or both. At least 200 hours of community service shall be performed, or 60 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed.

(d) Third offense. A person convicted of violating section 1201 of this title who has previously been convicted two times of a violation of that section, including at least one violation within the last 20 years, shall be fined not more than \$2,500.00 or imprisoned not more than five years, or both. At least 96 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The court may impose a sentence that does not include a term of imprisonment or that does not require that the 96 hours of imprisonment be served consecutively only if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(e) Fourth or subsequent offense.

(1) A person convicted of violating section 1201 of this title who has previously been convicted three or more times of a violation of that section, including at least one violation within the last 20 years, shall be fined not more than \$5,000.00 or imprisoned not more than 10 years, or both. At least 192 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol treatment facility pursuant to sentence if the program is successfully completed. The court shall not impose a sentence that does not include a term of imprisonment unless the court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.

(2) The Department of Corrections shall provide alcohol and substance abuse treatment, when appropriate, to any person convicted of a violation of this subsection.

(f) Death resulting.

(1) If the death of any person results from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$10,000.00 or imprisoned not less than one year nor more than 15 years, or both. The provisions of this subsection do not limit or restrict prosecutions for manslaughter.

(2) If the death of more than one person results from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each decedent.

(3)(A) If the death of any person results from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of that section, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or

served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if the death of any person results from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of that section, the court may impose a sentence that does not include a term of imprisonment or that includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(g) Injury resulting.

(1) If serious bodily injury, as defined in 13 V.S.A. § 1021(2), results to any person other than the operator from a violation of section 1201 of this title, the person convicted of the violation shall be fined not more than \$5,000.00 or imprisoned not more than 15 years, or both.

(2) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to more than one person other than the operator from a violation of section 1201 of this title, the operator may be convicted of a separate violation of this subdivision for each person injured.

(3)(A) If serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of section 1201, a sentence ordered pursuant to this subsection shall, except as provided in subdivision (B) of this subdivision (3), include at least a five-year term of imprisonment. The five-year minimum term of imprisonment required by this subdivision shall be served and may not be suspended, deferred, or served as a supervised sentence. The defendant shall not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the five-year term of imprisonment.

(B) Notwithstanding subdivision (A) of this subdivision (3), if serious bodily injury as defined in 13 V.S.A. § 1021(2) results to any person other than the operator from a violation of section 1201 of this title and the person convicted of the violation previously has been convicted two or more times of a violation of section 1201, the court may impose a sentence that does not include a term of imprisonment or that includes a term of imprisonment of less than five years if the court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(h) Determination of fines. In determining appropriate fines under this section, the court may take into account the total cost to a defendant of alcohol screening, participation in the Alcohol and Driving Education Program and therapy, and the income of the defendant.

(i) Surcharge; Blood and Breath Alcohol Testing Special Fund. A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$60.00, which shall be added to any fine imposed by the court. The court shall collect and transfer such surcharge to the Department of Public Safety for deposit in the Blood and Breath Alcohol Testing Special Fund established by section 1220b of this title.

(j) Surcharge; Public Defender Special Fund. A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to the Office of Defender General for deposit in the Public Defender Special Fund, specifying the source of the monies

being deposited. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge.

(k) Surcharge; DUI Enforcement Special Fund. A person convicted of violating section 1201 of this title shall be assessed a surcharge of \$50.00, which shall be added to any fine or surcharge imposed by the court. The court shall collect and transfer the surcharge assessed under this subsection to be credited to the DUI Enforcement Special Fund. The collection procedures described in 13 V.S.A. § 5240 shall be utilized in the collection of this surcharge. (Added 1969, No. 267 (Adj. Sess.), § 10; amended 1973, No. 79, § 8, eff. May 23, 1973; 1975, No. 103, § 6, eff. May 30, 1975; 1977, No. 101, § 1, eff. May 6, 1977; 1981, No. 205 (Adj. Sess.), § 2; 1983, No. 134 (Adj. Sess.), § 3; 1989, No. 68, § 7, eff. Dec. 1, 1989; 1991, No. 55, § 9; 1991, No. 234 (Adj. Sess.), § 1; 1993, No. 25, § 25, eff. May 18, 1993; 1995, No. 77 (Adj. Sess.), § 11, eff. March 21, 1996; 1997, No. 117 (Adj. Sess.), § 27; 1999, No. 160 (Adj. Sess.), § 21; 2007, No. 195 (Adj. Sess.), § 5; 2011, No. 56, § 5; 2011, No. 56, § 17, eff. March 1, 2012; 2019, No. 32, § 9; 2019, No. 131 (Adj. Sess.), § 193.)

• **§ 1216. Persons under 21 years of age; alcohol concentration of 0.02 or more**

(a) A person under 21 years of age who operates, attempts to operate, or is in actual physical control of a vehicle on a highway when the person's alcohol concentration is 0.02 or more commits a civil traffic violation subject to the jurisdiction of the Judicial Bureau and subject to the following sanctions:

(1) For a first violation, the person's license or privilege to operate shall be suspended for six months and until the person complies with subdivision 1209a(a)(1) of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title. A person who elects to operate under an RDL or certificate shall not be eligible for reinstatement unless he or she operates under the RDL or certificate for six months, plus any extension of this period arising from a violation of section 1213 of this title.

(2) For a second or subsequent violation, the person's license or privilege to operate shall be suspended until the person reaches 21 years of age or for one year, whichever is longer, and complies with subdivisions 1209a(a)(2)(A), (B), and (D) of this title. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued pursuant to section 1213 of this title. A person who elects to operate under an RDL or certificate shall not be eligible for reinstatement unless he or she operates under the RDL or certificate for one year or until the person reaches 21 years of age, whichever is longer, plus any extension of this period arising from a violation of section 1213 of this title.

(b) [Repealed.]

(c) A person who violates this section may also be subject to recall of his or her provisional license under section 607a of this title.

(d) If a law enforcement officer has reasonable grounds to believe that a person is violating this section, the officer may request the person to submit to a breath test using a preliminary screening device approved by the Commissioner of Public Safety. A refusal to submit to the breath test shall be considered a violation of this section. Notwithstanding any provisions to the contrary in sections 1202 and 1203 of this title:

(1) the results of the test shall be admissible evidence in a proceeding under this section; and

(2) there shall be no statutory right to counsel prior to the administration of the test.

(e) In a proceeding under this section, if there was at any time within two hours of operating, attempting to operate, or being in actual physical control of a vehicle on a highway an alcohol concentration of 0.02 or more, it shall be a rebuttable presumption that the person's alcohol concentration was 0.02 or more at the time of operating, attempting to operate, or being in actual physical control.

(f) No fine and no points shall be assessed for a violation of this section.

(g) The Alcohol and Driving Program required under this section shall be administered by the Department of Health's Division of Substance Use Programs and shall take into consideration any particular treatment needs of operators under 21 years of age.

(h) A charge of violating this section shall not bar prosecution for any crime, including a prosecution under section 1201 of this title.

(i) Suspensions imposed under this section or any comparable statute of any other jurisdiction shall run concurrently with suspensions imposed under sections 1205, 1206, and 1208 of this title or any comparable statutes of any other jurisdiction or with any suspension resulting from a conviction for a violation of section 1091 of this title from the same incident, and a person shall receive credit for any elapsed period of a suspension served in Vermont against a later suspension imposed in this State. (Added 1991, No. 55, § 17; amended 1997, No. 57, § 1, eff. Sept. 1, 1997; 1997, No. 121 (Adj. Sess.), §§ 9, 27; 2009, No. 126 (Adj. Sess.), § 10, eff. July 1, 2011; 2011, No. 46, § 9, eff. July 2, 2011; 2011, No. 56, § 18, eff. March 1, 2012; 2011, No. 90 (Adj. Sess.), § 6; 2013, No. 57, § 20; 2015, No. 158 (Adj. Sess.), § 52; 2021, No. 115 (Adj. Sess.), § 5, eff. July 1, 2022.)

- **§ 1219. Commercial motor vehicle; detectable amount; out-of-service**

A person who is operating, attempting to operate, or in actual physical control of a commercial motor vehicle with any measurable or detectable amount of alcohol in his or her system shall immediately be placed out-of-service for 24 hours by an enforcement officer. A law enforcement officer who has reasonable grounds to believe that a person has a measurable or detectable amount of alcohol in his or her system on the basis of the person's general appearance, conduct, or other substantiating evidence may request the person to submit to a test, which may be administered with a preliminary screening device. The law enforcement officer shall inform the person at the time the test is requested that refusal to submit will result in disqualification. If the person refuses to submit to the test, the person shall immediately be placed out-of-service for 24 hours and shall be disqualified from driving a commercial motor vehicle as provided in section 4116 of this title. (Added 1991, No. 88, § 14.)

[Title 18: Health](#)

[Chapter 084: Possession and Control of Regulated Drugs](#)

[Subchapter 003: Miscellaneous](#)

- **§ 4254. Immunity from liability**

(a) As used in this section:

(1) “Drug overdose” means an acute condition resulting from or believed to be resulting from the use of a regulated drug that a layperson would reasonably believe requires medical assistance. For purposes of this section, “regulated drug” shall include alcohol.

(2) “Medical assistance” means professional services provided to a person experiencing a drug overdose by a health care professional licensed, registered, or certified under State law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment, or emergency services for a person experiencing a drug overdose.

(3) “Seeks medical assistance” shall include providing care to someone who is experiencing a drug overdose while awaiting the arrival of medical assistance to aid the overdose victim.

(b) A person who, in good faith and in a timely manner, seeks medical assistance for someone who is experiencing a drug overdose shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under 21 years of age pursuant to 7 V.S.A. § 656 or for providing to or enabling consumption of alcohol by someone under 21 years of age pursuant to 7 V.S.A. § 658(a)-(c).

(c) A person who is experiencing a drug overdose and, in good faith, seeks medical assistance for himself or herself or is the subject of a good faith request for medical assistance shall not be cited, arrested, or prosecuted for a violation of this chapter or cited, arrested, or prosecuted for procuring, possessing, or consuming alcohol by someone under 21 years of age pursuant to 7 V.S.A. § 656 or for providing to or enabling consumption of alcohol by someone under 21 years of age pursuant to 7 V.S.A. § 658(a)-(c).

(d) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any of the penalties for violation of 13 V.S.A. § 1030 (violation of a protection order), for a violation of this chapter or 7 V.S.A. § 656, for being at the scene of the drug overdose or for being within close proximity to any person at the scene of the drug overdose.

(e) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of this chapter or 7 V.S.A. § 656 for being at the scene of the drug overdose or for being within close proximity to any person at the scene of the drug overdose.

(f) The act of seeking medical assistance for or by someone who is experiencing a drug overdose shall be considered a mitigating circumstance at sentencing for a violation of any other offense.

(g) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person’s seeking medical assistance for a drug overdose, being the subject of a good faith request for medical assistance, being at the scene, or being within close proximity to any person at the scene of the drug overdose for which medical assistance was sought and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

(h) A person who seeks medical assistance for a drug overdose pursuant to subsection (b) or (c) of this section shall not be subject to the provisions of subchapter 2 of this chapter concerning property subject to forfeiture, except that prima facie contraband shall be subject to forfeiture.

(i) Except in cases of reckless or intentional misconduct, law enforcement shall be immune from liability for citing or arresting a person who is later determined to qualify for immunity under this section. (Added 2013, No. 71, § 2, eff. June 5, 2013; amended 2013, No. 195 (Adj. Sess.), § 17; 2017, No. 83, § 148.)