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HOUSE BILL NO. 260

Offered January 9, 2002

Prefiled January 7, 2002

A BILL to amend and reenact § 18.2-52.1 of the Code of Virginia, relating to genuine and imitation infectious biological substances; penalty.

Patrons—McQuigg, Drake, Dudley and Janis

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-52.1 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-52.1. Manufacture, possession, transmission of infectious biological substances and transmission of imitation infectious biological substances.

A. Any person who possesses, with the intent thereby to injure another, an infectious biological substance capable of causing death, is guilty of a Class 5 felony. *Definitions. As used in this section:*

1. The term "infectious biological substance" means any bacteria, virus, fungi, protozoa, or rickettsiae capable of causing death or serious bodily injury.

2. The term "imitation infectious biological substance" means any substance in any form whatsoever that is not an infectious biological substance, and which (a) by overall appearance, including color, shape, size, marking and packaging or by representations made, would cause the likelihood that such a substance in any other form whatsoever will be mistaken by a reasonable person for an infectious biological substance; or (b) by express or implied representations, purports to act like an infectious biological substance.

B. Any person who destroys or damages, or attempts to destroy or damage, any facility, equipment or material involved in the sale, manufacturing, storage or distribution of an infectious biological substance capable of causing death, with the intent to injure another by releasing the substance, is guilty of a Class 4 felony.

C. Any person who (i) manufactures, sells, gives, distributes, or possesses with intent to sell, give, or distribute in any manner, an infectious biological substance and who knows or has reason to know that the substance will be unlawfully transmitted or (ii) transmits an infectious biological substance in any manner with the intent to injure another, is guilty of a Class 3 felony.

D. Any person who possesses an infectious biological substance with the intent to threaten, harass, intimidate or injure another is guilty of a Class 4 felony.

E. Any person who transmits an imitation infectious biological substance in any manner with the intent to threaten, harass, or intimidate another, is guilty of a Class 5 felony. It is not a defense to a violation of this subsection that the defendant believed the imitation infectious biological substance to be an infectious biological substance.

F. A prosecution pursuant to this section is proper in any jurisdiction where any portion of, or any act in furtherance of, the included offenses occur.

G. Nothing in this section shall prohibit the authorized, lawful manufacture, transportation, distribution, use or possession of any infectious biological substance or imitation infectious biological substance:

1. by the armed forces of the United States, fire fighters or law-enforcement officers or

2. for scientific research, educational purposes or other lawful purpose.

An "infectious biological substance" includes any bacteria, virus, fungi, protozoa, or rickettsiae capable of causing death.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

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