

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 18.2-247 of the Code of Virginia, relating to counterfeit drugs; penalty.*

3 [S 325]

4 Approved

5 **Be it enacted by the General Assembly of Virginia:**6 **1. That § 18.2-247 of the Code of Virginia is amended and reenacted as follows:**7 § 18.2-247. Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V and VI"
8 and "imitation controlled substance" in Title 18.2.9 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in
10 Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act
11 (§ 54.1-3400 et seq.).12 B. The term "imitation controlled substance" when used in this article means (i) *a counterfeit*
13 *controlled substance* or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a
14 controlled substance subject to abuse, and:15 1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or
16 by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
17 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
18 into commerce prior to the initial introduction into commerce of the controlled substance which it is
19 alleged to imitate; or20 2. Which by express or implied representations purports to act like a controlled substance as a
21 stimulant or depressant of the central nervous system and which is not commonly used or recognized for
22 use in that particular formulation for any purpose other than for such stimulant or depressant effect,
23 unless marketed, promoted, or sold as permitted by the United States Food and Drug Administration.24 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
25 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
26 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal
27 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the
28 packaging of the drug and its appearance in overall finished dosage form, promotional materials or
29 representations, oral or written, concerning the drug, and the methods of distribution of the drug and
30 where and how it is sold to the public.31 D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*,
32 whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture,
33 or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract
34 containing one or more cannabinoids unless such extract contains less than ~~twelve~~ 12 percent of
35 tetrahydrocannabinol by weight, or the mature stalks of such plant, fiber produced from such stalk, oil
36 or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other
37 parts of plants of the genus *Cannabis*.38 E. *The term "counterfeit controlled substance" means a controlled substance that, without*
39 *authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear,*
40 *the trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a*
41 *drug manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or*
42 *distributor who did in fact so manufacture, process, pack or distribute such drug.*43 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
44 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
45 **be determined for periods of imprisonment in state adult correctional facilities and cannot be**
46 **determined for periods of commitment to the custody of the Department of Juvenile Justice.**