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## HOUSE BILL NO. 1381

Offered January 11, 2006

A BILL to amend the Code of Virginia by adding a section numbered 18.2-248.03, relating to penalties when death results from manufacture, sale, etc., of a Schedule I or II controlled substance.

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Patron—Phillips

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 18.2-248.03 as follows:**

§ 18.2-248.03. Penalties when death results from violation of § 18.2-248.

A. Any person who, as the result of the unlawful manufacturing, selling, giving, distribution, or possession with the intent to manufacture, sell, give, or distribute a Schedule I or II controlled substance in violation of § 18.2-248, unintentionally causes the death of another person as a result of such other person's use of such substance, either from its sole consumption or its consumption in combination with one or more other controlled substances, may, in the discretion of the court or jury imposing the sentence, be sentenced upon conviction to imprisonment for not less than 10 years nor more than life and be fined not more than \$1,000,000 or \$5,000,000 if the defendant is other than an individual.

B. Any person who, as the result of the unlawful manufacturing, selling, giving, distribution, or possession with the intent to manufacture, sell, give, or distribute a Schedule I or II controlled substance in violation of § 18.2-248 after having been previously convicted of a violation of § 18.2-248 and such violation is committed after a prior conviction for a violation under § 18.2-248 has become final, unintentionally causes the death of another person as a result of the use of such substance, either from its sole consumption or its consumption in combination with one or more other controlled substances, may, in the discretion of the court or jury imposing the sentence, be sentenced upon conviction to imprisonment of not less than 20 years nor more than life and be fined not more than \$5,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual.

C. Any person who, as the result of the unlawful manufacturing, selling, giving, distribution, or possession with the intent to manufacture, sell, give, or distribute a Schedule I or II controlled substance in violation of § 18.2-248 after having been previously convicted of a second or subsequent violation of § 18.2-248 and it is alleged in the warrant, indictment, or information that he has been before convicted of two or more such offenses of § 18.2-248 and such violation is committed after the prior convictions for violations under § 18.2-248 have become final, unintentionally causes the death of another person as a result of the use of such substance, either from its sole consumption or its consumption in combination with one or more other controlled substances, may, in the discretion of the court or jury imposing the sentence, be sentenced upon conviction to imprisonment of not less than 20 years nor more than life and be fined not more than \$8,000,000 if the defendant is an individual or \$20,000,000 if the defendant is other than an individual, 20 years of which shall be a mandatory minimum term of imprisonment.

D. If any person is convicted of the unlawful manufacturing, selling, giving, distribution, or possession with the intent to manufacture, sell, give, or distribute a Schedule I or II controlled substance in violation of § 18.2-248 and, as a result thereof, unintentionally causes the death of another person as a result of the use of such substance, either from its sole consumption or its consumption in combination with one or more other controlled substances, but such person proves that he gave, distributed, or possessed with intent to give or distribute such controlled substance classified in Schedule I or II only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility, or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, may, in the discretion of the court or jury imposing the sentence, be sentenced upon conviction to imprisonment of not less than five years nor more than 40 years.

E. Any person who, as the result of the unlawful manufacturing, selling, giving, distribution, or possession with the intent to manufacture, sell, give, or distribute a Schedule III or IV controlled substance in violation of § 18.2-248, unintentionally causes the death of another person as a result of such other person's use of such substance, either from its sole consumption or its consumption in combination with one or more other controlled substances, may, in the discretion of the court or jury

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59 *imposing the sentence, be sentenced upon conviction to imprisonment for not less than five years nor*  
60 *more than 40 years.*

61 *F. Violation of this section shall constitute a separate and distinct felony.*

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