

060016408

**SENATE BILL NO. 570**

Offered January 11, 2006

Prefiled January 11, 2006

*A BILL to amend and reenact § 18.2-250 of the Code of Virginia, relating to penalty for possession of controlled substances.*

---

Patron—McDougle

---

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That § 18.2-250 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-250. Possession of controlled substances unlawful; penalty.

A. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

Upon the prosecution of a person for a violation of this section, ownership or occupancy of premises or vehicle upon or in which a controlled substance was found shall not create a presumption that such person either knowingly or intentionally possessed such controlled substance.

(a) Any person who violates this section with respect to any controlled substance classified in Schedule I or II of the Drug Control Act shall be guilty of a Class 5 felony.

(b) Any person other than an inmate of a penal institution as defined in § 53.1-1 or in the custody of an employee thereof, who violates this section with respect to a controlled substance classified in Schedule III shall be guilty of a Class 1 misdemeanor.

(b1) Violation of this section with respect to a controlled substance classified in Schedule IV shall be punishable as a Class 2 misdemeanor.

(b2) Violation of this section with respect to a controlled substance classified in Schedule V shall be punishable as a Class 3 misdemeanor.

(c) Violation of this section with respect to a controlled substance classified in Schedule VI shall be punishable as a Class 4 misdemeanor.

B. Any person who is convicted of a felony violation of this section shall be punished by a mandatory minimum term of confinement of 45 days and shall be ordered by the court to undergo drug education and rehabilitation during his term of confinement.

C. The provisions of this section shall not apply to members of state, federal, county, city or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of a controlled substance or substances is necessary in the performance of their duties.

**2. That the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services shall, with assistance from the Virginia Alcohol Safety Action Program, develop, on or before July 1, 2007, an appropriate drug education and rehabilitation program to be made available to inmates subject to felony punishment under § 18.2-250.**

**3. That the provisions of this act shall become effective July 1, 2007.**

**4. 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 is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

INTRODUCED

SB570