

2007 SESSION

HOUSE SUBSTITUTE

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HOUSE BILL NO. 2760

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 2, 2007)

(Patrons Prior to Substitute—Delegates Hurt and Janis [HB 2584])

A BILL to amend and reenact § 19.2-188.1 of the Code of Virginia, relating to notice of right to receive full marijuana analysis.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-188.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-188.1. Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, any law-enforcement officer shall be permitted to testify as to the results of field tests which have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247.

B. In any trial for a violation of § 18.2-250.1, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the ~~defendant~~ *accused* has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of § 18.2-250.1, ~~or the attorney of record for the accused~~, desires a full chemical analysis of the alleged plant material, he may, by motion *made at least 10 days* prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis. *If the accused requests a full analysis of the alleged plant material and the analysis is unavailable at the time of trial, he shall be entitled to continue the trial.*

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