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HOUSE BILL NO. 1434

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 31, 2011)

(Patrons Prior to Substitute—Delegates Garrett, Bell, R.P. [HB 1473], Cleaveland [HB 1481], Filler-Corn [HB 1878], Gilbert [HB 1778], Miller, P.J. [HB 1423] and Oder [HB 1427])

A BILL to amend and reenact § 54.1-3446 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-248.1:1, relating to penalties for sale or distribution of synthetic marijuana.

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-3446 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-248.1:1 as follows:

§ 18.2-248.1:1. Penalties for possession, sale, gift, distribution or possession with intent to sell, give or distribute synthetic marijuana.

A. For the purposes of this article, synthetic marijuana includes any of the controlled substances listed as synthetic marijuana in Schedule I of the Drug Control Act (§ 54.1-3400 et seq.) and any preparation, mixture or substance, containing or infused with any detectable amount of a substance listed as synthetic marijuana in Schedule I. Notwithstanding any of the provisions set forth in this article other than § 18.2-251 regarding punishment for the possession, sale, gift, distribution or possession with intent to sell, give or distribute controlled substances listed in Schedule I, punishment for the possession, sale, gift, distribution or possession with intent to sell, give or distribute synthetic marijuana shall be in accordance with this section.

B. It is unlawful for any person to knowingly or intentionally possess synthetic marijuana. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

C. It is unlawful for any person to sell, give, distribute or possess with intent to sell, give or distribute synthetic marijuana. Any person who violates this subsection with respect to (i) more than one-half ounce of synthetic marijuana but not more than five pounds of synthetic marijuana is guilty of a Class 1 misdemeanor, punishment for which shall include a mandatory minimum term of incarceration of 60 days; or (ii) more than five pounds of synthetic marijuana is guilty of a Class 1 misdemeanor, punishment for which shall include a mandatory minimum term of incarceration of six months.

§ 54.1-3446. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alpha-cetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetylbutyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxadine;

60 Furethidine;
61 Hydroxypethidine;
62 Ketobemidone;
63 Levomoramide;
64 Levophenacymorphan;
65 Morpheridine;
66 Noracymethadol;
67 Norlevorphanol;
68 Normethadone;
69 Norpipanone;
70 Phenadoxone;
71 Phenampromide;
72 Phenomorphan;
73 Phenoperidine;
74 Piritramide;
75 Proheptazine;
76 Properidine;
77 Propiram;
78 Racemoramide;
79 Tilidine;
80 Trimeperidine.

81 2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless
82 specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible
83 within the specific chemical designation:

84 Acetorphine;
85 Acetyldihydrocodeine;
86 Benzylmorphine;
87 Codeine methylbromide;
88 Codeine-N-Oxide;
89 Cyprenorphine;
90 Desomorphine;
91 Dihydromorphine;
92 Drotebanol;
93 Etorphine;
94 Heroin;
95 Hydromorphanol;
96 Methyl-desorphine;
97 Methyl-dihydromorphine;
98 Morphine methylbromide;
99 Morphine methylsulfonate;
100 Morphine-N-Oxide;
101 Myrophine;
102 Nicocodeine;
103 Nicomorphine;
104 Normorphine;
105 Pholcodine;
106 Thebacon.

107 3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture,
108 or preparation, which contains any quantity of the following hallucinogenic substances, or which
109 contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers,
110 and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision
111 only, the term "isomer" includes the optical, position, and geometric isomers):

112 Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine;
113 3-2-aminobutyl] indole; a-ET; AET);
114 4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:
115 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);
116 3,4-methylenedioxy amphetamine;
117 5-methoxy-3,4-methylenedioxy amphetamine;
118 3,4,5-trimethoxy amphetamine;
119 Alpha-methyltryptamine (other name: AMT);
120 Bufotenine;
121 Diethyltryptamine;

- 122 Dimethyltryptamine;
 123 4-methyl-2,5-dimethoxyamphetamine;
 124 2,5-dimethoxy-4-ethylamphetamine (DOET);
 125 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
 126 Ibogaine;
 127 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
 128 Lysergic acid diethylamide;
 129 Mescaline;
 130 Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6,
 131 9-trimethyl-6H-dibenzo -b,d] pyran; Synhexyl);
 132 Peyote;
 133 N-ethyl-3-piperidyl benzilate;
 134 N-methyl-3-piperidyl benzilate;
 135 Psilocybin;
 136 Psilocyn;
 137 Salvinorin A;
 138 Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated
 139 in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;
 140 Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);
 141 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine;
 142 2,5-DMA);
 143 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts
 144 and salts of isomers;
 145 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4
 146 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
 147 N-hydroxy-3,4-methylenedioxyamphetamine (some other names:
 148 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);
 149 4-bromo-2,5-dimethoxyamphetamine (some trade or other names:
 150 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);
 151 4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine;
 152 paramethoxyamphetamine; PMA);
 153 Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine,
 154 (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
 155 Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy,
 156 PHP);
 157 Thiophene analog of phencyclidine (some other names: 1-1-(2-thienyl) -cyclohexyl]-piperidine,
 158 2-thienyl analog of phencyclidine, TPCP, TCP);
 159 1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
 160 *Synthetic marijuana, which means a substance that contains one or more of the following:*
 161 *5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);*
 162 *5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);*
 163 *5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);*
 164 *5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);*
 165 *1-pentyl-3-(1-naphthoyl)indole (other name: JWH-018);*
 166 *1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);*
 167 *1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);*
 168 *1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);*
 169 *1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name JWH-200);*
 170 *(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chr-*
 171 *omen-1-ol (other name: HU-210).*
 172 4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture
 173 or preparation which contains any quantity of the following substances having a depressant effect on the
 174 central nervous system, including its salts, isomers and salts of isomers whenever the existence of such
 175 salts, isomers and salts of isomers is possible within the specific chemical designation:
 176 Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate;
 177 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
 178 Mecloqualone;
 179 Methaqualone.
 180 5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture
 181 or preparation which contains any quantity of the following substances having a stimulant effect on the
 182 central nervous system, including its salts, isomers and salts of isomers:

183 Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,
184 5-dihydro-5-phenyl-2-oxazolamine);
185 N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);
186 Fenethylline;
187 Ethylamphetamine;
188 Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,
189 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;
190 Methcathinone (some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)
191 propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone;
192 monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR
193 1432);
194 Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
195 N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine,
196 N,N-alpha-trimethylphenethylamine).
197 6. Any material, compound, mixture or preparation containing any quantity of the following
198 substances:
199 N-3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl), its
200 optical and geometric isomers, salts, and salts of isomers;
201 1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP), its optical isomers, salts and salts of
202 isomers;
203 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP), its optical isomers, salts and
204 salts of isomers;
205 N-1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide (other names:
206 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine), alpha-methylfentanyl);
207 N-1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (other name:
208 acetyl-alpha-methylfentanyl), its optical isomers, salts and salts of isomers;
209 N-1-(1-methyl-2-2-thienyl)ethyl-4 piperidyl]-N-phenylpropanamide (other name:
210 alpha-methylthiofentanyl), its optical isomers, salts and salts of isomers;
211 N-1-benzyl-4-piperidyl]N-phenylpropanamide (other name: benzylfentanyl), its optical isomers, salts
212 and salts of isomers;
213 N-1-(2-hydroxy-2-phenyl) ethyl-4-piperidyl]-N-phenylpropanamide (other name:
214 beta-hydroxyfentanyl), its optical isomers, salts and salts of isomers;
215 N-3-methyl-1-(2-hydroxy-2-phenethyl)4-piperidyl]Nphenylpropanamide (other name:
216 betahydroxy3methylfentanyl), its optical and geometric isomers, salts and salts of isomers;
217 N-(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide (other name:
218 3-methylthiofentanyl), its optical and geometric isomers, salts and salts of isomers;
219 N-1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (other name: thenylfentanyl), its optical
220 isomers, salts and salts of isomers;
221 N-phenyl-N-1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl), its optical
222 isomers, salts and salts of isomers;
223 N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidinyl] propanamide (other name: para-fluorofentanyl),
224 its optical isomers, salts and salts of isomers.
225 **2. That an emergency exists and this act is in force from its passage.**