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HOUSE BILL NO. 2049

Offered January 12, 2011

Prefiled January 11, 2011

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.*

Patron—Ebbin

Referred to Committee for Courts of Justice

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 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) not more than one-half ounce of synthetic marijuana is guilty of a Class 1 misdemeanor; (ii) more than one-half ounce but not more than five pounds of synthetic marijuana is guilty of a Class 5 felony; (iii) more than five pounds of synthetic marijuana is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years.

D. Any person who manufactures synthetic marijuana, or possesses synthetic marijuana with the intent to manufacture such substance is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years and a fine not to exceed \$10,000.

§ 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-acetylmethadol, 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;

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

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

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

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

116 Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine;
117 3-2-aminobutyl] indole; a-ET; AET);

118 4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:
119 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);

120 3,4-methylenedioxy amphetamine;

- 121 5-methoxy-3,4-methylenedioxy amphetamine;
- 122 3,4,5-trimethoxy amphetamine;
- 123 Alpha-methyltryptamine (other name: AMT);
- 124 Bufotenine;
- 125 Diethyltryptamine;
- 126 Dimethyltryptamine;
- 127 4-methyl-2,5-dimethoxyamphetamine;
- 128 2,5-dimethoxy-4-ethylamphetamine (DOET);
- 129 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);
- 130 Ibogaine;
- 131 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
- 132 Lysergic acid diethylamide;
- 133 Mescaline;
- 134 Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6,
- 135 9-trimethyl-6H-dibenzo -b,d] pyran; Synhexyl);
- 136 Peyote;
- 137 N-ethyl-3-piperidyl benzilate;
- 138 N-methyl-3-piperidyl benzilate;
- 139 Psilocybin;
- 140 Psilocyn;
- 141 Salvinorin A;
- 142 Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated
- 143 in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;
- 144 Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);
- 145 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine;
- 146 2,5-DMA);
- 147 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts
- 148 and salts of isomers;
- 149 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4
- 150 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
- 151 N-hydroxy-3,4-methylenedioxyamphetamine (some other names:
- 152 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);
- 153 4-bromo-2,5-dimethoxyamphetamine (some trade or other names:
- 154 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);
- 155 4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine;
- 156 paramethoxyamphetamine; PMA);
- 157 Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine,
- 158 (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
- 159 Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy,
- 160 PHP);
- 161 Thiophene analog of phencyclidine (some other names: 1-1-(2-thienyl) -cyclohexyl]-piperidine,
- 162 2-thienyl analog of phencyclidine, TPCP, TCP);
- 163 1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
- 164 *Synthetic marijuana, which means a substance that contains one or more of the following:*
- 165 *2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl)phenol (other name: CP 47,497);*
- 166 *2-(3-hydroxycyclohexyl)-5-(2-methylheptan-2-yl)phenol;*
- 167 *2-(3-hydroxycyclohexyl)-5-(2-methylnonan-2-yl)phenol;*
- 168 *2-(3-hydroxycyclohexyl)-5-(2-methyldecan-2-yl)phenol;*
- 169 *1-pentyl-3-(1-naphthoyl)indole (other name: JWH-018);*
- 170 *1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);*
- 171 *1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);*
- 172 *1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);*
- 173 *(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chr-*
- 174 *omen-1-ol (other name: HU-210).*
- 175 4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture
- 176 or preparation which contains any quantity of the following substances having a depressant effect on the
- 177 central nervous system, including its salts, isomers and salts of isomers whenever the existence of such
- 178 salts, isomers and salts of isomers is possible within the specific chemical designation:
- 179 Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate;
- 180 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
- 181 Mecloqualone;

182 Methaqualone.

183 5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture
184 or preparation which contains any quantity of the following substances having a stimulant effect on the
185 central nervous system, including its salts, isomers and salts of isomers:

186 Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,
187 5-dihydro-5-phenyl-2-oxazolamine);

188 N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

189 Fenethylamine;

190 Ethylamphetamine;

191 Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,
192 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

193 Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)
194 propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone;
195 monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR
196 1432);

197 Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

198 N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine,
199 N,N-alpha-trimethylphenethylamine).

200 6. Any material, compound, mixture or preparation containing any quantity of the following
201 substances:

202 N-3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl), its
203 optical and geometric isomers, salts, and salts of isomers;

204 1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP), its optical isomers, salts and salts of
205 isomers;

206 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP), its optical isomers, salts and
207 salts of isomers;

208 N-1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide (other names:
209 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine), alpha-methylfentanyl);

210 N-1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (other name:
211 acetyl-alpha-methylfentanyl), its optical isomers, salts and salts of isomers;

212 N-1-(1-methyl-2-2-thienyl)ethyl-4 piperidyl]-N-phenylpropanamide (other name:
213 alpha-methylthiofentanyl), its optical isomers, salts and salts of isomers;

214 N-1-benzyl-4-piperidyl]N-phenylpropanamide (other name: benzylfentanyl), its optical isomers, salts
215 and salts of isomers;

216 N-1-(2-hydroxy-2-phenyl) ethyl-4-piperidyl]-N-phenylpropanamide (other name:
217 beta-hydroxyfentanyl), its optical isomers, salts and salts of isomers;

218 N-3-methyl-1-(2-hydroxy-2-phenethyl)4-piperidyl]Nphenylpropanamide (other name:
219 betahydroxy3methylfentanyl), its optical and geometric isomers, salts and salts of isomers;

220 N-(3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name:
221 3-methylthiofentanyl), its optical and geometric isomers, salts and salts of isomers;

222 N-1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (other name: thenylfentanyl), its optical
223 isomers, salts and salts of isomers;

224 N-phenyl-N-1-(2-thienyl)ethyl-4-piperidyl]-propanamide (other name: thiofentanyl), its optical
225 isomers, salts and salts of isomers;

226 N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidyl] propanamide (other name: para-fluorofentanyl),
227 its optical isomers, salts and salts of isomers.

228 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
229 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
230 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
231 **874 of the Acts of Assembly of 2010 requires the Virginia Criminal Sentencing Commission to**
232 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**
233 **necessary appropriation cannot be determined for periods of commitment to the custody of the**
234 **Department of Juvenile Justice.**