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SENATE BILL NO. 745

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 11, 2011)

(Patron Prior to Substitute—Senator Herring)

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-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;

Dioxaphetylbutyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxidine;

Furethidine;

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

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

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

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

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

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

- 183 5-dihydro-5-phenyl-2-oxazolamine);
184 N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);
185 Fenethylamine;
186 Ethylamphetamine;
187 Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,
188 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;
189 Methcathinone (some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)
190 propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone;
191 monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR
192 1432);
193 Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
194 N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine,
195 N,N-alpha-trimethylphenethylamine).
196 6. Any material, compound, mixture or preparation containing any quantity of the following
197 substances:
198 N-3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl), its
199 optical and geometric isomers, salts, and salts of isomers;
200 1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP), its optical isomers, salts and salts of
201 isomers;
202 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP), its optical isomers, salts and
203 salts of isomers;
204 N-1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide (other names:
205 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine), alpha-methylfentanyl);
206 N-1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (other name:
207 acetyl-alpha-methylfentanyl), its optical isomers, salts and salts of isomers;
208 N-1-(1-methyl-2-2-thienyl)ethyl-4 piperidyl]-N-phenylpropanamide (other name:
209 alpha-methylthiofentanyl), its optical isomers, salts and salts of isomers;
210 N-1-benzyl-4-piperidyl]N-phenylpropanamide (other name: benzylfentanyl), its optical isomers, salts
211 and salts of isomers;
212 N-1-(2-hydroxy-2-phenyl) ethyl-4-piperidyl]-N-phenylpropanamide (other name:
213 beta-hydroxyfentanyl), its optical isomers, salts and salts of isomers;
214 N-3-methyl-1-(2-hydroxy-2-phenethyl)4-piperidyl]Nphenylpropanamide (other name:
215 beta-hydroxy3methylfentanyl), its optical and geometric isomers, salts and salts of isomers;
216 N-(3-methyl-1-(2-thienyl)ethyl-4-piperidinyll]-N-phenylpropanamide (other name:
217 3-methylthiofentanyl), its optical and geometric isomers, salts and salts of isomers;
218 N-1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (other name: thenylfentanyl), its optical
219 isomers, salts and salts of isomers;
220 N-phenyl-N-1-(2-thienyl)ethyl-4-piperidinyll]-propanamide (other name: thiofentanyl), its optical
221 isomers, salts and salts of isomers;
222 N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidinyll] propanamide (other name: para-fluorofentanyl),
223 its optical isomers, salts and salts of isomers.
224 **2. That an emergency exists and this act is in force from its passage.**