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SENATE BILL NO. 749

Offered January 12, 2011

Prefiled November 2, 2010

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.*

Patrons—Smith and Reynolds

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. Synthetic marijuana is a controlled substance listed in Schedule 1 of the Drug Control Act (§ 54.1-3400 et seq.). 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 1, 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-alphacetylmethadol, 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;

INTRODUCED

SB749

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

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

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

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

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

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

or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

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

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

Fenethylamine;

Ethylamphetamine;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. 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 cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 874 of the Acts of Assembly of 2010 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.