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HOUSE BILL NO. 986

Offered January 11, 2012

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A *BILL to amend and reenact §§ 18.2-248.1:1 and 54.1-3446 of the Code of Virginia, relating to regulation of synthetic cannabinoids; bath salts; penalties.*

Patrons—Loupassi, Albo, Crockett-Stark, Filler-Corn, Helsel, Hodges, Massie, Merricks, O'Bannon and Rust

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-248.1:1 and 54.1-3446 of the Code of Virginia are amended and reenacted as follows:

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

A. For the purposes of this title, synthetic cannabinoids means any substance that contains one or more of the following: *cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation*, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more of the following *cannabimimetic agents*.

1. "Cannabimimetic agents" means any substance that is a cannabinoid receptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within any of the following structural classes:

a. 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

b. 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

c. 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

d. 1-(1-naphthylmethyl)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent; or

e. 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.

2. The term *cannabimimetic agents* includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other name: JWH-018);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

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58 *Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name:*
59 *WIN 48,098);*
60 *1-pentyl-3-(4-methoxybenzoyl)indole (other name: RCS-4);*
61 *1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other name: RCS-8).*

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

64 C. It is unlawful for any person to sell, give, distribute, or possess with intent to sell, give, or
65 distribute synthetic cannabinoids. Any person who violates this subsection is guilty of a Class 6 felony.

66 D. If a person proves that he gave, distributed or possessed with intent to give or distribute synthetic
67 cannabinoids only as an accommodation to another individual and not with intent to profit thereby from
68 any consideration received or expected nor to induce the recipient or intended recipient of the synthetic
69 cannabinoids to use or become addicted to or dependent upon such synthetic cannabinoids, he is guilty
70 of a Class 1 misdemeanor. Any person who gives, distributes or possesses synthetic cannabinoids as an
71 accommodation and not with intent to profit thereby, to an inmate of a state or local correctional facility
72 as defined in § 53.1-1, or in the custody of an employee thereof is guilty of a Class 4 felony.

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

76 F. Any drug not listed in this section or the Drug Control Act (§ 54.1-3400 et seq.), which is
77 privately compounded, with the specific intent to circumvent the criminal penalties for synthetic
78 cannabinoids, to emulate or simulate the effects of synthetic cannabinoids through chemical changes
79 such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of
80 a substituent, shall be subject to the same criminal penalties as for synthetic cannabinoids.

81 G. Upon conviction, in addition to any other punishment, a person found guilty of a violation of this
82 section shall be ordered by the court to make restitution, as the court deems appropriate, to any innocent
83 property owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of
84 such synthetic cannabinoid production. This restitution may include the person's or his estate's estimated
85 or actual expenses associated with cleanup, removal, or repair of the affected property.

86 § 54.1-3446. Schedule I.

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

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

91 Acetylmethadol;

92 Allylprodine;

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

95 Alphameprodine;

96 Alphamethadol;

97 Benzethidine;

98 Betacetylmethadol;

99 Betameprodine;

100 Betamethadol;

101 Betaprodine;

102 Clonitazene;

103 Dextromoramide;

104 Diampromide;

105 Diethylthiambutene;

106 Difenoxin;

107 Dimenoxadol;

108 Dimepheptanol;

109 Dimethylthiambutene;

110 Dioxaphetylbutyrate;

111 Dipipanone;

112 Ethylmethylthiambutene;

113 Etonitazene;

114 Etoxadine;

115 Furethidine;

116 Hydroxypethidine;

117 Ketobemidone;

118 Levomoramide;

119 Levophenacylmorphane;

120 Morpheridine;
 121 Noracymethadol;
 122 Norlevorphanol;
 123 Normethadone;
 124 Norpipanone;
 125 Phenadoxone;
 126 Phenampromide;
 127 Phenomorphan;
 128 Phenoperidine;
 129 Piritramide;
 130 Proheptazine;
 131 Properidine;
 132 Propiram;
 133 Racemoramide;
 134 Tilidine;
 135 Trimeperidine.

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

139 Acetorphine;
 140 Acetyldihydrocodeine;
 141 Benzylmorphine;
 142 Codeine methylbromide;
 143 Codeine-N-Oxide;
 144 Cyprenorphine;
 145 Desomorphine;
 146 Dihydromorphine;
 147 Drotebanol;
 148 Etorphine;
 149 Heroin;
 150 Hydromorphanol;
 151 Methyl-desorphine;
 152 Methyl-dihydromorphine;
 153 Morphine methylbromide;
 154 Morphine methylsulfonate;
 155 Morphine-N-Oxide;
 156 Myorphine;
 157 Nicocodeine;
 158 Nicomorphine;
 159 Normorphine;
 160 Pholcodine;
 161 Thebacon.

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

167 Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine;
 168 3-2-aminobutyl] indole; a-ET; AET);
 169 4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:
 170 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);
 171 3,4-methylenedioxy amphetamine;
 172 5-methoxy-3,4-methylenedioxy amphetamine;
 173 3,4,5-trimethoxy amphetamine;
 174 Alpha-methyltryptamine (other name: AMT);
 175 Bufotenine;
 176 Diethyltryptamine;
 177 Dimethyltryptamine;
 178 4-methyl-2,5-dimethoxyamphetamine;
 179 2,5-dimethoxy-4-ethylamphetamine (DOET);
 180 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

181 Ibogaine;
 182 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);
 183 Lysergic acid diethylamide;
 184 Mescaline;
 185 Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6,
 186 9-trimethyl-6H-dibenzo -b,d] pyran; Synhexyl);
 187 Peyote;
 188 N-ethyl-3-piperidyl benzilate;
 189 N-methyl-3-piperidyl benzilate;
 190 Psilocybin;
 191 Psilocyn;
 192 Salvinorin A;
 193 Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated
 194 in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;
 195 Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);
 196 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine;
 197 2,5-DMA);
 198 3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts
 199 and salts of isomers;
 200 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4
 201 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
 202 N-hydroxy-3,4-methylenedioxyamphetamine (some other names:
 203 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);
 204 4-bromo-2,5-dimethoxyamphetamine (some trade or other names:
 205 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);
 206 4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine;
 207 paramethoxyamphetamine; PMA);
 208 Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine,
 209 (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);
 210 Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy,
 211 PHP);
 212 Thiophene analog of phencyclidine (some other names: 1-1-(2-thienyl) -cyclohexyl]-piperidine,
 213 2-thienyl analog of phencyclidine, TCP, TCP);
 214 1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);
 215 3,4-methylenedioxypropylvalerone (other name: MDPV);
 216 4-methylmethcathinone (other names: mephedrone, 4-MMC);
 217 3,4-methylenedioxymethcathinone (other name: methylone);
 218 Naphthylpyrovalerone (other name: naphyrone);
 219 4-fluoromethcathinone (other name: flephedrone, 4-FMC);
 220 4-methoxymethcathinone (other names: methedrone; bk-PMMA);
 221 Ethcathinone (other name: N-ethylcathinone);
 222 3,4-methylenedioxyethcathinone (other name: ethylone);
 223 Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone);
 224 N,N-dimethylcathinone (other name: metamfepramone);
 225 Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);
 226 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);
 227 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);
 228 Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);
 229 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);
 230 3-fluoromethcathinone (other name: 3-FMC)
 231 4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);
 232 4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);
 233 4-Methylethcathinone (other name: 4-MEC);
 234 4-Ethylmethcathinone (other name: 4-EMC);
 235 N,N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);
 236 Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);
 237 Alpha-methylamino-butyrophenone (other name: Buphedrone);
 238 Alpha-methylamino-valerophenone (other name: Pentedrone);
 239 3,4-Dimethylmethcathinone (other name: 3,4-DMMC);
 240 4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP).
 241 4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture
 242 or preparation which contains any quantity of the following substances having a depressant effect on the

central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Mecloqualone;

Methaqualone.

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: beta-hydroxy-3-methylfentanyl), its optical and geometric isomers, salts and salts of isomers;

N-(3-methyl-1-(2-thienyl)ethyl-4-piperidinyll]-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-piperidinyll]-propanamide (other name: thiofentanyl), its optical isomers, salts and salts of isomers;

N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidinyll] 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 890 of the Acts of Assembly of 2011 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.