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SENATE BILL NO. 223

Offered January 11, 2012

Prefiled January 10, 2012

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.

Patron—Herring

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 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 with 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 with 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 with 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 with 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);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

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59 *1-pentyl-3-(4-methoxybenzoyl)indole (other name: RCS-4);*

60 *1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other name: RCS-8).*

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

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

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

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

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

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

85 § 54.1-3446. Schedule I.

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

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

90 Acetylmethadol;

91 Allylprodine;

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

94 Alphameprodine;

95 Alphamethadol;

96 Benzethidine;

97 Betacetylmethadol;

98 Betameprodine;

99 Betamethadol;

100 Betaprodine;

101 Clonitazene;

102 Dextromoramide;

103 Diampromide;

104 Diethylthiambutene;

105 Difenoxin;

106 Dimenoxadol;

107 Dimepheptanol;

108 Dimethylthiambutene;

109 Dioxaphetylbutyrate;

110 Dipipanone;

111 Ethylmethylthiambutene;

112 Etonitazene;

113 Etoxadine;

114 Furethidine;

115 Hydroxypethidine;

116 Ketobemidone;

117 Levomoramide;

118 Levophenacetyl morphan;

119 Morpheridine;

120 Noracymethadol;

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

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

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

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

166 Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine;
 167 3-2-aminobutyl] indole; a-ET; AET);

168 4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:
 169 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);

170 3,4-methylenedioxy amphetamine;
 171 5-methoxy-3,4-methylenedioxy amphetamine;

172 3,4,5-trimethoxy amphetamine;

173 Alpha-methyltryptamine (other name: AMT);

174 Bufotenine;

175 Diethyltryptamine;

176 Dimethyltryptamine;

177 4-methyl-2,5-dimethoxyamphetamine;

178 2,5-dimethoxy-4-ethylamphetamine (DOET);

179 2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

180 Ibogaine;

181 5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

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

244 Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate;
 245 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);
 246 Mecloqualone;
 247 Methaqualone.
 248 5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture
 249 or preparation which contains any quantity of the following substances having a stimulant effect on the
 250 central nervous system, including its salts, isomers and salts of isomers:
 251 Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,
 252 5-dihydro-5-phenyl-2-oxazolamine);
 253 N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);
 254 Fenethylamine;
 255 Ethylamphetamine;
 256 Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,
 257 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;
 258 Methcathinone (some other names: 2-(methylamino)-propionophenone; alpha-(methylamino)
 259 propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone;
 260 monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR
 261 1432);
 262 Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
 263 N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine,
 264 N,N-alpha-trimethylphenethylamine).
 265 6. Any material, compound, mixture or preparation containing any quantity of the following
 266 substances:
 267 N-3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl), its
 268 optical and geometric isomers, salts, and salts of isomers;
 269 1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP), its optical isomers, salts and salts of
 270 isomers;
 271 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP), its optical isomers, salts and
 272 salts of isomers;
 273 N-1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide (other names:
 274 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine), alpha-methylfentanyl);
 275 N-1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (other name:
 276 acetyl-alpha-methylfentanyl), its optical isomers, salts and salts of isomers;
 277 N-1-(1-methyl-2-2-thienyl)ethyl-4 piperidyl]-N-phenylpropanamide (other name:
 278 alpha-methylthiofentanyl), its optical isomers, salts and salts of isomers;
 279 N-1-benzyl-4-piperidyl]N-phenylpropanamide (other name: benzylfentanyl), its optical isomers, salts
 280 and salts of isomers;
 281 N-1-(2-hydroxy-2-phenyl) ethyl-4-piperidyl]-N-phenylpropanamide (other name:
 282 beta-hydroxyfentanyl), its optical isomers, salts and salts of isomers;
 283 N-3-methyl-1-(2-hydroxy-2-phenethyl)4-piperidyl]Nphenylpropanam ide (other name:
 284 betahydroxy3methylfentanyl), its optical and geometric isomers, salts and salts of isomers;
 285 N-(3-methyl-1-(2-thienyl)ethyl-4-piperidiny]l]-N-phenylpropanami de (other name:
 286 3-methylthiofentanyl), its optical and geometric isomers, salts and salts of isomers;
 287 N-1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (other name: thenylfentanyl), its optical
 288 isomers, salts and salts of isomers;
 289 N-phenyl-N-1-(2-thienyl)ethyl-4-piperidiny]l]-propanamide (other name: thiofentanyl), its optical
 290 isomers, salts and salts of isomers;
 291 N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidiny]l] propanamide (other name: para-fluorofentanyl),
 292 its optical isomers, salts and salts of isomers.
 293 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
 294 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
 295 **be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter**
 296 **890 of the Acts of Assembly of 2011 requires the Virginia Criminal Sentencing Commission to**
 297 **assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the**
 298 **necessary appropriation cannot be determined for periods of commitment to the custody of the**
 299 **Department of Juvenile Justice.**