

13103958D

SENATE BILL NO. 712

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on January 21, 2013)

(Patron Prior to Substitute—Senator Stuart)

*A BILL to amend and reenact §§ 18.2-46.6 and 18.2-85 of the Code of Virginia, relating to penalty for hoax explosive devices and fake weapons of terror.***Be it enacted by the General Assembly of Virginia:****1. That §§ 18.2-46.6 and 18.2-85 of the Code of Virginia are amended and reenacted as follows:****§ 18.2-46.6. Possession, manufacture, distribution, etc. of weapon of terrorism or hoax device prohibited; penalty.**

A. Any person who, with the intent to commit an act of terrorism, possesses, uses, sells, gives, distributes or manufactures (i) a weapon of terrorism or (ii) a "fire bomb," "explosive material," or "device," as those terms are defined in § 18.2-85, is guilty of a Class 2 felony.

B. Any person who, with the intent to commit an act of terrorism, possesses, uses, sells, gives, distributes or manufactures any device or material that by its design, construction, content or characteristics appears to be or appears to contain a (i) weapon of terrorism or (ii) a "fire bomb," "explosive material," or "device," as those terms are defined in § 18.2-85, but that is an imitation of any such weapon of terrorism, "fire bomb," "explosive material," or "device" is guilty of a Class 3 felony.

C. Any person who, with the intent to (i) intimidate the civilian population, (ii) influence the conduct or activities of the government of the United States, a state or locality through intimidation, (iii) compel the emergency evacuation of any place of assembly, building or other structure, or any means of mass transportation, or (iv) place any person in reasonable apprehension of bodily harm, uses, sells, gives, distributes, or manufactures any device or material that by its design, construction, content, or characteristics appears to be or appears to contain a weapon of terrorism, but that is an imitation of any such weapon of terrorism is guilty of a Class 6 5 felony.

§ 18.2-85. Manufacture, possession, use, etc., of fire bombs or explosive materials or devices; penalties.

For the purpose of this section:

"Device" means any instrument, apparatus or contrivance, including its component parts, that is capable of producing or intended to produce an explosion but shall not include fireworks as defined in § 27-95.

"Explosive material" means any chemical compound, mechanical mixture or device that is commonly used or can be used for the purpose of producing an explosion and which contains any oxidizing and combustive agents or other ingredients in such proportions, quantities or packaging that an ignition by fire, friction, concussion, percussion, detonation or by any part of the compound or mixture may cause a sudden generation of highly heated gases. These materials include, but are not limited to, gunpowder, powders for blasting, high explosives, blasting materials, fuses (other than electric circuit breakers), detonators, and other detonating agents and smokeless powder.

"Fire bomb" means any container of a flammable material such as gasoline, kerosene, fuel oil, or other chemical compound, having a wick composed of any material or a device or other substance which, if set or ignited, is capable of igniting such flammable material or chemical compound but does not include a similar device commercially manufactured and used solely for the purpose of illumination or cooking.

"Hoax explosive device" means any device which by its design, construction, content or characteristics appears to be or to contain a bomb or other destructive device or explosive but which is an imitation of any such device or explosive.

Any person who (i) possesses materials with which fire bombs or explosive materials or devices can be made with the intent to manufacture fire bombs or explosive materials or devices or, (ii) manufactures, transports, distributes, possesses, or uses a fire bomb or explosive materials or devices shall be guilty of a Class 5 felony. Any person who constructs, uses, places, sends, or causes to be sent any hoax explosive device so as to intentionally cause another person to believe that such device is a bomb or explosive ~~shall be~~ is guilty of a Class 6 5 felony.

Nothing in this section shall prohibit the authorized manufacture, transportation, distribution, use or possession of any material, substance, or device by a member of the armed forces of the United States, fire fighters or law-enforcement officers, nor shall it prohibit the manufacture, transportation, distribution, use or possession of any material, substance or device to be used solely for scientific research, educational purposes or for any lawful purpose, subject to the provisions of §§ 27-97 and 27-97.2.

60 2. That the provisions of this act may result in a net increase in periods of imprisonment or
61 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is
62 \$47,685 for periods of imprisonment in state adult correctional facilities and cannot be determined
63 for periods of commitment to the custody of the Department of Juvenile Justice.