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## HOUSE BILL NO. 1834

Offered January 9, 2019

Prefiled January 2, 2019

A BILL to amend and reenact § 18.2-85 of the Code of Virginia, relating to use of binary explosives; penalty.

Patron—Marshall

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-85 of the Code of Virginia is amended and reenacted as follows:**

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

~~For the purpose of A.~~ As used in this section:

"Binary explosive" means two or more components that are advertised and sold together with instructions on how to combine the components to create an explosive material.

"Device" means any instrument, apparatus, or contrivance, including its component parts, that is capable of producing or intended to produce an explosion ~~but shall~~. "Device" does 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, or 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 that~~, 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 that~~ 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.

B. 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~~ is 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 felony.

~~Nothing~~ C. It is unlawful for any person to combine the components of a binary explosive to create an explosive material and ignite more than five pounds of such explosive material at a single time. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

D. Unless otherwise prohibited by law, nothing in this section shall prohibit the authorized manufacture, transportation, distribution, use, or possession of any material, substance, or device by a ~~member~~ members 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.

INTRODUCED

HB1834