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HOUSE BILL NO. 2563

House Amendments in [] — February 1, 2019

A BILL to amend and reenact §§ 18.2-265.1 and 54.1-3466 of the Code of Virginia, relating to drug paraphernalia and controlled paraphernalia; fentanyl testing products.

Patron Prior to Engrossment—Delegate Robinson

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-265.1 and 54.1-3466 of the Code of Virginia are amended and reenacted as follows:
§ 18.2-265.1. Definition.

As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of any kind which are either designed for use or which are intended by the person charged with violating § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marijuana or a controlled substance. It includes, but is not limited to:

1. Kits intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of marijuana or any species of plant which is a controlled substance or from which a controlled substance can be derived;

2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing marijuana or controlled substances;

3. Isomerization devices intended for use or designed for use in increasing the potency of marijuana or any species of plant which is a controlled substance;

4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength or effectiveness of marijuana or controlled substances, *other than narcotic testing products used to determine whether a controlled substance contains fentanyl [or a fentanyl analog]* ;

5. Scales and balances intended for use or designed for use in weighing or measuring marijuana or controlled substances;

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or designed for use in cutting controlled substances;

7. Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances;

9. Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of marijuana or controlled substances;

10. Containers and other objects intended for use or designed for use in storing or concealing marijuana or controlled substances;

11. Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body;

12. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Miniature cocaine spoons, and cocaine vials;

g. Chamber pipes;

h. Carburetor pipes;

i. Electric pipes;

j. Air-driven pipes;

k. Chillums;

l. Bongs;

m. Ice pipes or chillers.

ENGROSSED

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59 § 54.1-3466. Possession or distribution of controlled paraphernalia; definition of controlled
60 paraphernalia; evidence; exceptions.

61 A. For purposes of this chapter, "controlled paraphernalia" means (i) a hypodermic syringe, needle,
62 or other instrument or implement or combination thereof adapted for the administration of controlled
63 dangerous substances by hypodermic injections under circumstances that reasonably indicate an intention
64 to use such controlled paraphernalia for purposes of illegally administering any controlled drug or (ii)
65 gelatin capsules, glassine envelopes, or any other container suitable for the packaging of individual
66 quantities of controlled drugs in sufficient quantity to and under circumstances that reasonably indicate
67 an intention to use any such item for the illegal manufacture, distribution, or dispensing of any such
68 controlled drug. Evidence of such circumstances shall include, but not be limited to, close proximity of
69 any such controlled paraphernalia to any adulterants or equipment commonly used in the illegal
70 manufacture and distribution of controlled drugs including, but not limited to, scales, sieves, strainers,
71 measuring spoons, staples and staplers, or procaine hydrochloride, mannitol, lactose, quinine, or any
72 controlled drug, or any machine, equipment, instrument, implement, device, or combination thereof that
73 is adapted for the production of controlled drugs under circumstances that reasonably indicate an
74 intention to use such item or combination thereof to produce, sell, or dispense any controlled drug in
75 violation of the provisions of this chapter. *"Controlled paraphernalia" does not include narcotic testing*
76 *products used to determine whether a controlled substance contains fentanyl [or a fentanyl analog]* .

77 B. Except as authorized in this chapter, it is unlawful for any person to possess controlled
78 paraphernalia.

79 C. Except as authorized in this chapter, it is unlawful for any person to distribute controlled
80 paraphernalia.

81 D. A violation of this section is a Class 1 misdemeanor.

82 E. The provisions of this section shall not apply to persons who have acquired possession and control
83 of controlled paraphernalia in accordance with the provisions of this article or to any person who owns
84 or is engaged in breeding or raising livestock, poultry, or other animals to which hypodermic injections
85 are customarily given in the interest of health, safety, or good husbandry; or to hospitals, physicians,
86 pharmacists, dentists, podiatrists, veterinarians, funeral directors and embalmers, persons to whom a
87 permit has been issued, manufacturers, wholesalers, or their authorized agents or employees when in the
88 usual course of their business, if the controlled paraphernalia lawfully obtained continue to be used for
89 the legitimate purposes for which they were obtained.

90 F. The provisions of this section and of § 18.2-265.3 shall not apply to (i) a person who dispenses
91 naloxone in accordance with the provisions of subsection Y of § 54.1-3408 and who, in conjunction with
92 such dispensing of naloxone, dispenses or distributes hypodermic needles and syringes for injecting such
93 naloxone or (ii) a person who possesses naloxone that has been dispensed in accordance with the
94 provisions of subsection Y of § 54.1-3408 and possesses hypodermic needles and syringes for injecting
95 such naloxone in conjunction with such possession of naloxone.