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**HOUSE BILL NO. 1860**

Offered January 13, 2021

Prefiled January 7, 2021

*A BILL to amend and reenact § 18.2-258.1 of the Code of Virginia, relating to obtaining, attempting to obtain, procuring, or attempting to procure controlled substances by means of the Internet or by mail; exceptions; penalty.*

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Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That § 18.2-258.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit, or forgery, or by means of the Internet or mail without a valid prescription.**

A. It shall be unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance or marijuana: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of any written order; (iii) by the concealment of a material fact; ~~or~~ (iv) by the use of a false name or the giving of a false address; or (v) *by means of the Internet, United States Postal Service, or other commercial delivery provider without a valid prescription or order of a practitioner while acting in the course of his professional practice.*

B. It shall be unlawful for any person to furnish false or fraudulent information in or omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1.

C. It shall be unlawful for any person to use in the course of the manufacture or distribution of a controlled substance or marijuana a license number which is fictitious, revoked, suspended, or issued to another person.

D. It shall be unlawful for any person, for the purpose of obtaining any controlled substance or marijuana to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other authorized person.

E. It shall be unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. It shall be unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

G. This section shall not apply to officers and employees of the United States, of this Commonwealth, or of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such drugs for investigative, research, or analytical purposes, or to the agents or duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for investigative, research, or analytical purposes and who are acting in the course of their employment; provided that such manufacturer is licensed under the provisions of the Federal Food, Drug, and Cosmetic Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized representatives file with the Board such information as the Board may deem appropriate. *Additionally, the provisions of clause (v) of subsection A shall not apply to any person authorized by local, state, or federal law to manufacture, compound, process, sell, or dispense controlled substances.*

H. Except as otherwise provided in this subsection, any person who shall violate any provision herein shall be guilty of a Class 6 felony.

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court may place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused. This program may be located in the judicial circuit in which the charge is brought or in any other judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by the Department of Behavioral Health and Developmental Services. The court shall require the person entering such program under the provisions of this section to pay all or part of

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59 the costs of the program, including the costs of the screening, evaluation, testing and education, based  
60 upon the person's ability to pay unless the person is determined by the court to be indigent.

61 As a condition of supervised probation, the court shall require the accused to remain drug free during  
62 the period of probation and submit to such tests during that period as may be necessary and appropriate  
63 to determine if the accused is drug free. Such testing may be conducted by the personnel of any  
64 screening, evaluation, and education program to which the person is referred or by the supervising  
65 agency.

66 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report  
67 to the original arresting law-enforcement agency to submit to fingerprinting.

68 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony  
69 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court  
70 shall find the defendant guilty of a Class 1 misdemeanor.

71 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
72 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
73 **necessary appropriation cannot be determined for periods of imprisonment in state adult**  
74 **correctional facilities; therefore, Chapter 1289 of the Acts of Assembly of 2020 requires the**  
75 **Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant**  
76 **to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot**  
77 **be determined for periods of commitment to the custody of the Department of Juvenile Justice.**