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HOUSE BILL NO. 361

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 4.1-1101 and 18.2-255 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 4.1-1106, relating to allowing access to, purchase for, or provision of marijuana to minors; penalties.

Patron—Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-1101 and 18.2-255 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-1106 as follows:

§ 4.1-1101. Home cultivation of marijuana for personal use; penalties.

A. Notwithstanding the provisions of subdivision c of § 18.2-248.1, a person 21 years of age or older may cultivate up to four marijuana plants for personal use at their place of residence; however, at no point shall a household contain more than four marijuana plants. For purposes of this section, a "household" means those individuals, whether related or not, who live in the same house or other place of residence.

A person may only cultivate marijuana plants pursuant to this section at such person's main place of residence.

B. A person who cultivates marijuana for personal use pursuant to this section shall:

1. Ensure that no marijuana plant is visible from a public way without the use of aircraft, binoculars, or other optical aids;

2. Take precautions to prevent unauthorized access by persons younger than 21 years of age; and

3. Attach to each marijuana plant a legible tag that includes the person's name, driver's license or identification number, and a notation that the marijuana plant is being grown for personal use as authorized under this section.

C. A person shall not manufacture marijuana concentrate from home-cultivated marijuana. The owner of a property or parcel or tract of land may not intentionally or knowingly allow another person to manufacture marijuana concentrate from home-cultivated marijuana within or on that property or land.

D. The following penalties or punishments shall be imposed on any person convicted of a violation of this section:

1. For possession of more than four marijuana plants but no more than 10 marijuana plants, (i) a civil penalty of \$250 for a first offense, (ii) a Class 3 misdemeanor for a second offense, and (iii) a Class 2 misdemeanor for a third and any subsequent offense;

2. For possession of more than 10 but no more than 49 marijuana plants, a Class 1 misdemeanor;

3. For possession of more than 49 but no more than 100 marijuana plants, a Class 6 felony; and

4. For possession of more than 100 marijuana plants, a felony punishable by a term of imprisonment of not less than one year nor more than 10 years and a fine of not more than \$250,000, or both; and

5. For recklessly allowing unauthorized access to marijuana plants by a person younger than 21, a Class 1 misdemeanor.

§ 4.1-1106. Purchasing marijuana or marijuana products for person younger than 21 years of age; penalties.

A. Any person who purchases marijuana or marijuana products for, or otherwise gives, provides, or assists in the provision of marijuana or marijuana products to, another person when he knows or has reason to know that such person is younger than 21 years of age, except by any federal, state, or local law-enforcement officer when possession of marijuana or marijuana products is necessary in the performance of his duties, is guilty of a Class 1 misdemeanor.

B. A violation of this section shall constitute a separate and distinct offense. The provisions of this section shall not preclude prosecution under any other statute.

§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.

A. Except as authorized in the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, it shall be unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug classified in Schedule I, II, III or IV ~~or marijuana~~ to any person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug classified in Schedule I, II, III or IV ~~or marijuana~~. Any person violating this provision shall upon conviction be imprisoned in a state correctional facility for a period not less than

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59 10 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
60 conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of~~
61 ~~marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction~~
62 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

63 B. It ~~shall be~~ *is* unlawful for any person who is at least 18 years of age to knowingly or intentionally
64 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three
65 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any
66 imitation controlled substance. Any person violating this provision ~~shall be~~ *is* guilty of a Class 6 felony.

67 **2. That if the provisions of Chapters 550 and 551 of the Acts of Assembly of 2021, Special Session**
68 **I, amending § 18.2-255 of the Code of Virginia and creating § 4.1-1106 of the Code of Virginia are**
69 **reenacted by the 2022 Session of the General Assembly, then the provisions of § 18.2-255 of the**
70 **Code of Virginia, as amended by this act, and the provisions of § 4.1-1106 of the Code of Virginia,**
71 **as created by this act, shall not become effective; otherwise, such provisions of this act shall**
72 **become effective in due course.**