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HOUSE BILL NO. 1455

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 3, 2023)

(Patron Prior to Substitute—Delegate Anderson)

A BILL to amend the Code of Virginia by adding a section numbered 18.2-248.05, relating to selling, giving, or distributing a substance containing fentanyl; penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-248.05 as follows:

§ 18.2-248.05. *Selling, giving, or distributing a substance containing fentanyl to another without such person's knowledge that the substance contains fentanyl; penalties.*

A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who sells, gives, or distributes a substance he knows contains two milligrams or more of any mixture or substance containing a detectable amount of fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, to another person without such person's knowledge that the substance sold, given, or distributed contains any mixture or substance containing a detectable amount of fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, is guilty of attempted murder of the first degree by poison pursuant to §§ 18.2-26 and 18.2-32. If such sale, gift, or distribution of two milligrams or more of any mixture or substance containing a detectable amount of fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, to another person without such person's knowledge that the substance sold, given, or distributed contains any mixture or substance containing a detectable amount of fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, results in the death of such other person from his use of such substance, the person who sold, gave, or distributed the mixture or substance containing a detectable amount of fentanyl, including its isomers, esters, ethers, salts, and salts of isomers, to such person is guilty of murder of the first degree by poison pursuant to § 18.2-32.

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.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.