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## HOUSE BILL NO. 2328

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Militia and Police)

(Patron Prior to Substitute—Delegate Scott)

House Amendments in [ ] — February 3, 1995

A BILL to amend and reenact § 18.2-250 of the Code of Virginia, relating to possession of controlled substances; penalty.

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

**1. That § 18.2-250 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-250. Possession of controlled substances unlawful.

A. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

Upon the prosecution of a person for a violation of this section, ownership or occupancy of premises or vehicle upon or in which a controlled substance was found shall not create a presumption that such person either knowingly or intentionally possessed such controlled substance.

(a) Any person who violates this section with respect to any controlled substance classified in Schedules I or II of the Drug Control Act shall be guilty of a Class 5 felony.

(b) Any person other than an inmate of a penal institution as defined in § 53.1-1 or in the custody of an employee thereof, who violates this section with respect to a controlled substance classified in Schedule III shall be guilty of a Class 1 misdemeanor.

(b1) Violation of this section with respect to a controlled substance classified in Schedule IV shall be punishable as a Class 2 misdemeanor.

(b2) Violation of this section with respect to a controlled substance classified in Schedule V shall be punishable as a Class 3 misdemeanor.

(c) Violation of this section with respect to a controlled substance classified in Schedule VI shall be punishable as a Class 4 misdemeanor.

B. The provisions of this section shall not apply to members of state, federal, county, city or town law-enforcement agencies or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of a controlled substance or substances is necessary in the performance of their duties.

C. Notwithstanding any other provision of law, [ ~~the commission of two misdemeanor offenses under this section in any thirty-six month period shall, upon conviction of both offenses, make the offender ineligible to purchase a handgun~~ the conviction of two misdemeanor offenses under this section or a disposition pursuant to § 18.2-251 followed by a conviction under this section, in any thirty-six month period, shall, upon conviction of the second offense, make the offender ineligible to purchase or possess a handgun ] .

D. Any person ineligible to purchase a handgun under the provisions of subsection C shall regain such eligibility five years after the date of conviction of the [ ~~second misdemeanor offense~~ misdemeanor offense making such person ineligible, ] if there have been no subsequent misdemeanor convictions of such person under this section during the five year period.

ENGROSSED

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