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SENATE BILL NO. 357

Offered January 22, 1996

A BILL to amend and reenact § 18.2-85 of the Code of Virginia, relating to bombs and explosive materials; forfeiture.

Patron—Norment

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-85 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-85. Manufacture, possession, use, etc., of fire bombs or explosive materials or devices; penalties; forfeiture of conveyances.

For the purpose of this section:

"Fire bomb" means any container of a flammable material such as gasoline, kerosene, fuel oil, or other chemical compound, having a wick or other substance or device which, if set or ignited, is capable of igniting such flammable material or chemical compound but does not include a similar device commercially manufactured and used solely for the purpose of illumination or cooking.

"Explosive material" means any chemical compound, mechanical mixture or device that is commonly used or can be used for the purpose of producing an explosion and which contains any oxidizing and combustive agents or other ingredients in such proportions, quantities or packaging that an ignition by fire, friction, concussion, percussion, detonation or by any part of the compound or mixture may cause a sudden generation of highly heated gases. These materials include, but are not limited to, gunpowder, powders for blasting, high explosives, blasting materials, fuses (other than electric circuit breakers), detonators, and other detonating agents and smokeless powder.

"Device" means any instrument, apparatus or contrivance, including its component parts, that is capable of producing or intended to produce an explosion but shall not include fireworks as defined in § 59.1-142.

"Hoax explosive device" means any device which by its design, construction, content or characteristics appears to be or to contain a bomb or other destructive device or explosive but which is, in fact, an imitation of any such device or explosive.

Any person who (i) possesses materials with which fire bombs or explosive materials or devices can be made with the intent to manufacture fire bombs or explosive materials or devices or, (ii) manufactures, transports, distributes, possesses or uses a fire bomb or explosive materials or devices shall be guilty of a Class 5 felony. Any person who constructs, uses, places, sends, or causes to be sent any hoax explosive device so as to intentionally cause another person to believe that such device is a bomb or explosive shall be guilty of a Class 6 felony.

Nothing in this section shall prohibit the authorized manufacture, transportation, distribution, use or possession of any material, substance, or device by a member of the armed forces of the United States, fire fighters or law-enforcement officers, nor shall it prohibit the manufacture, transportation, distribution, use or possession of any material, substance or device to be used solely for scientific research, educational purposes or for any lawful purpose.

Any vehicle, vessel, aircraft or conveyance of any kind used by the owner thereof or used by another with his knowledge or employed in the concealment, conveyance or transportation of any fire bombs or explosive materials or devices shall be subject to seizure by any officer charged with enforcing the provisions of this section and shall be forfeited to the Commonwealth. The officer making the seizure shall take deliver the vehicle, vessel, aircraft or conveyance to the sheriff of the county or city in which the offense occurred and shall take a receipt therefor. Forfeiture of the vehicle shall be enforced as provided in §§ 4.1-340 through 4.1-347. The law-enforcement agency making the seizure shall, for such period of time as the court prescribes, be permitted the use and operation of the vehicle or conveyance after the court forfeiture, for the investigation of crime, provided the agency using or operating the vehicle or conveyance has insurance on it for liability and property damage.

INTRODUCED

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