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HOUSE BILL NO. 1809

Offered January 8, 1997

A *BILL to amend and reenact § 18.2-255.2 of the Code of Virginia, relating to drug-free school zones; penalty.*

Patron—Murphy

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-255.2 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-255.2. Prohibiting the sale of drugs on or near certain properties.

A. It shall be unlawful for any person to manufacture, sell or distribute or possess with intent to sell, give or distribute any controlled substance, imitation controlled substance or marijuana at any time while (i) upon the property, including buildings and grounds, of any public or private elementary, secondary, or post secondary school; *any public or private day-care center*; or any public or private two-year or four-year institution of higher education; (ii) upon public property or any property open to public use within 1,000 feet of such school *or day-care center* property; (iii) on any school bus as defined in § 46.2-100; (iv) upon the property, including buildings and grounds, of any publicly owned or publicly operated recreation or community center facility or any public library; or (v) upon the property of any state hospital as defined in § 37.1-1 or upon public property or property open to public use within 1,000 feet of such an institution. Nothing in this section shall prohibit the authorized distribution of controlled substances.

B. Violation of this section shall constitute a separate and distinct felony. Any person violating the provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more than five years and fined not more than \$100,000. However, if such person proves that he sold such controlled substance or marijuana only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance or marijuana to use or become addicted to or dependent upon such controlled substance or marijuana, he shall be guilty of a Class 1 misdemeanor.

C. If a person commits an act violating the provisions of this section, and the same act also violates another provision of law that provides for penalties greater than those provided for by this section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition of any penalties provided for thereby.

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0.

INTRODUCED

HB1809