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SENATE BILL NO. 211

Offered January 14, 1998

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

Patrons—Stolle and Schrock

Referred to the Committee for Courts of Justice

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.

The penalty imposed upon conviction of a second or subsequent violation of this section, occurring within ten years of the first such conviction, shall include a minimum mandatory term of confinement of thirty days which shall not be suspended, in whole or in part. In addition, upon such second or subsequent conviction, the court shall order the person to undergo a substance abuse screening and assessment to be conducted by the drug education and intervention unit of the local alcohol safety action program.

The alcohol safety action program may charge a fee of no more than \$150 for the screening and assessment. If a substance abuse problem is identified, the person shall be required to complete the drug education and intervention component of the alcohol safety action program for which the local alcohol safety action program may charge a fee of no more than \$300. The court shall require the person to pay all or part of the costs of the program, including the costs of the screening, assessment, education and intervention, based upon the person's ability to pay.

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.

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

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