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SENATE BILL NO. 377

Offered January 23, 1998

A BILL to amend and reenact § 18.2-308.4 of the Code of Virginia, relating to possession of firearms while in possession of certain controlled substances.

Patrons—Norment, Forbes, Potts, Quayle, Stolle and Williams

Consent to introduce

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-308.4 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-308.4. Possession of firearms while in possession of certain controlled substances.

A. Any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 who simultaneously with knowledge and intent possesses any firearm, shall be guilty of a Class 6 felony.

B. It shall be unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 or more than one pound of marijuana. Violation of this subsection shall constitute a separate and distinct felony and any person convicted thereof shall be sentenced to a term of imprisonment of ~~three~~ five years for a first conviction, ~~and for~~ a term of ~~five~~ seven years for a second conviction and a term of ten years for a third or subsequent conviction under this subsection. Notwithstanding any other provision of law, the sentence prescribed for a violation of this subsection shall not be suspended in whole or in part, nor shall anyone convicted hereunder be placed on probation or parole for this offense. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

C. Any firearm possessed in violation of this section shall be forfeited to the Commonwealth pursuant to the provisions of § 18.2-310.

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 \$657,000.

INTRODUCED

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