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HOUSE BILL NO. 978

Offered January 11, 2006

Prefiled January 11, 2006

A *BILL to amend and reenact § 18.2-255.2 of the Code of Virginia, relating to sale near a school or other certain place of a substance that is represented to be marijuana; penalty.*

Patron—Abbitt

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; penalty.

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 or any substance that is represented to be marijuana~~ while (i) upon the property, including buildings and grounds, of any public or private elementary, secondary, or post secondary school, 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 property; (iii) on any school bus as defined in § 46.2-100; (iv) upon a designated school bus stop, or upon either public property or any property open to public use which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be picked up and transported to or are being dropped off from school or a school-sponsored activity; (v) upon the property, including buildings and grounds, of any publicly owned or publicly operated recreation or community center facility or any public library; or (vi) upon the property of any state facility as defined in § 37.2-100 or upon public property or property open to public use within 1,000 feet of such an institution. It is a violation of the provisions of this section if the person possessed the controlled substance, imitation controlled substance, ~~or marijuana or substance that is represented to be marijuana~~ on the property described in clauses (i) through (vi) of this subsection, regardless of where the person intended to sell, give or distribute the controlled substance, imitation controlled substance, ~~or marijuana or substance that is represented to be marijuana~~. 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. A second or subsequent conviction hereunder for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§ 54.1-3400 et seq.) or more than one-half ounce of marijuana shall be punished by a mandatory minimum term of imprisonment of one year to be served consecutively with any other sentence. 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 or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

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