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**HOUSE BILL NO. 1087**

Offered January 13, 2010

Prefiled January 13, 2010

*A BILL to amend and reenact § 19.2-188.1 of the Code of Virginia, relating to creation of category of and training of persons known as drug recognition experts.*

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Patron—Crockett-Stark

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Referred to Committee for Courts of Justice

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**Be it enacted by the General Assembly of Virginia:****1. That § 19.2-188.1 of the Code of Virginia is amended and reenacted as follows:****§ 19.2-188.1.** Testimony regarding identification of controlled substances.

A. In any preliminary hearing on a violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, any law-enforcement officer shall be permitted to testify as to the results of field tests which have been approved by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247.

B. In any trial for a violation of ~~§ 18.2-250.1~~ Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, any law-enforcement officer shall be permitted to testify as to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.

In any case in which the person accused of a violation of § 18.2-250.1, or the attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall order that the analysis be performed by the Department of Forensic Science and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for chemical analysis.

C. In any trial for a violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, involving cocaine or heroin, any law-enforcement officer shall be permitted to testify as to the results of any field test approved as accurate and reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any substance, the identity of which is at issue, is cocaine or heroin. The law-enforcement officer shall send the substance to the Department of Forensic Science for a full chemical analysis.

D. Any law-enforcement officer who performs any of the field tests authorized in this section shall be trained as a Drug Recognition Expert by the Department of Forensic Science.

INTRODUCED

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