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HOUSE BILL NO. 284

Offered January 13, 2016

Prefiled January 1, 2016

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-248.05, relating to manufacturing, etc., a controlled substance resulting in overdose; penalty.*

Patron—Collins

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-248.05 as follows:

§ 18.2-248.05. Manufacturing, selling, giving, or distributing a controlled substance resulting in overdose; penalty.

A. Any person who manufactures, sells, gives, or distributes a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to another person in violation of this article where the use of the controlled substance results in such other person's overdose, as defined in § 18.2-251.03, is guilty of a Class 5 felony. It is not a defense to a prosecution under this section that such other person contributed to his own overdose by his knowing or voluntary use of the controlled substance. Venue for a prosecution under this subsection shall lie in the locality where the violation of this article occurred, where the use of the controlled substance occurred, or where the overdose occurred.

B. It shall be an affirmative defense to prosecution of a person under this section if such person:

1. In good faith, seeks or obtains emergency medical attention for the person experiencing the overdose by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102; emergency medical services personnel, as defined in § 32.1-111.1; a law-enforcement officer, as defined in § 9.1-101; or an emergency 911 system;

2. Remains at the scene of the overdose or at any alternative location to which the person requiring emergency medical attention has been transported until a law-enforcement officer responds to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the alternative location, then such person shall cooperate with law enforcement as otherwise set forth herein;

3. Identifies himself to the law-enforcement officer who responds to the report of the overdose; and

4. If requested by a law-enforcement officer, substantially cooperates in any investigation of any criminal offense reasonably related to the controlled substance that resulted in the overdose.

C. No person may assert the affirmative defense provided for in this section if such person sought or obtained emergency medical attention for the person experiencing the overdose during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

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; therefore, Chapter 665 of the Acts of Assembly of 2015 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

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