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**HOUSE BILL NO. 656**

Offered January 13, 2016

Prefiled January 11, 2016

A *BILL to amend and reenact §§ 18.2-265.2 and 54.1-3467 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-45.4, relating to needles and syringes; dispensing and distributing; public health emergency.*

Patron—O'Bannon

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-265.2 and 54.1-3467 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-45.4 as follows:**

**§ 18.2-265.2. Evidence to be considered in cases under this article.**

In determining whether an object is drug paraphernalia, the court may consider, in addition to all other relevant evidence, the following:

- 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 2. The proximity of the object to marijuana or controlled substances, which proximity is actually known to the accused;
- 3. Instructions, oral or written, provided with the object concerning its use;
- 4. Descriptive materials accompanying the object which explain or depict its use;
- 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 6. The manner in which the object is displayed for sale;
- 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the business enterprise;
- 9. The existence and scope of legitimate uses for the object in the community *including whether possession or distribution of the object is part of participation in a syringe services program established pursuant § 32.1-45.4 by the State Health Commissioner during a public health emergency;*
- 10. Expert testimony concerning its use or the purpose for which it was designed;
- 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this article shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.

**§ 32.1-45.4. Syringe services programs; public health emergency.**

*The Commissioner may establish a syringe services program and may authorize persons who are not otherwise authorized by law to dispense or distribute hypodermic needles and syringes to dispense or distribute hypodermic needles and syringes in accordance with protocols approved by the Commissioner in order to control the transmission of disease when the Commissioner has declared a public health emergency and determines it is necessary to protect public health.*

**§ 54.1-3467. Distribution of hypodermic needles or syringes, gelatin capsules, quinine or any of its salts.**

A. Distribution by any method, of any hypodermic needles or syringes, gelatin capsules, quinine or any of its salts, in excess of one-fourth ounce shall be restricted to licensed pharmacists or to others who have received a license or a permit from the Board.

B. *Nothing in this section shall prohibit the dispensing or distributing of hypodermic needles and syringes by persons authorized by the State Health Commissioner as part of a syringe services program established pursuant to § 32.1-45.4 during a public health emergency.*

INTRODUCED

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