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HOUSE BILL NO. 1720

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 6, 2019)

(Patron Prior to Substitute—Delegate Hurst)

A BILL to amend and reenact § 22.1-277 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 18.2-251.1:1 and 22.1-274.5, relating to cannabidiol oil and THC-A oil; use at school.

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-277 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 18.2-251.1:1 and 22.1-274.5 as follows:

§ 18.2-251.1:1. Possession or distribution of cannabidiol oil or THC-A oil; public schools.

No school nurse employed by a local school board, person employed by a local health department who is assigned to the public school pursuant to an agreement between the local health department and the school board, or other person employed by or contracted with a local school board to deliver health-related services shall be prosecuted under §18.2-248, 18.2-248.1, 18.2-250, 18.2-250.1, or 18.2-255 for the possession or distribution of cannabidiol oil or THC-A oil for storing, dispensing, or administering cannabidiol oil or THC-A oil, in accordance with the policy adopted by the local school board pursuant to § 22.1-274.5, to a student who has been issued a valid written certification for the use of cannabidiol oil or THC-A oil in accordance with subsection B of § 54.1-3408.3.

§ 22.1-274.5. Cannabidiol oil and THC-A oil.

Each local school board shall adopt and implement policies permitting a student who has been issued a valid written certification for the use of cannabidiol oil or THC-A oil in accordance with subsection B of § 54.1-3408.3 to use such cannabidiol oil or THC-A oil while at school. Such policy shall include provisions for:

1. Written consent of the parent of a student.

2. Information provided by the practitioner who issued the written certification and the pharmaceutical processor that dispensed the cannabidiol oil or THC-A oil, as appropriate, on a form issued by the Department of Health Professions, that identifies the student; specifies the dosage of the cannabidiol oil or THC-A oil, the frequency in which it is to be administered, and any other circumstances that may warrant its use; and other relevant information.

3. Development of an individualized health care plan, including emergency procedures for any life-threatening conditions.

4. Storage and security requirements.

5. Recordkeeping requirements.

6. Disclosure or dissemination of information pertaining to the health condition of a student to school board employees to comply with §§ 22.1-287 and 22.1-289 and the federal Family Education Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, as amended, which govern the disclosure and dissemination of information contained in student scholastic records.

§ 22.1-277. Suspensions and expulsions of students generally.

A. Students may be suspended or expelled from attendance at school for sufficient cause; however, in no cases may sufficient cause for suspensions include only instances of truancy.

B. Except as provided in subsection C or § 22.1-277.07 or 22.1-277.08, no student in preschool through grade three shall be suspended for more than three school days or expelled from attendance at school, unless (i) the offense involves physical harm or credible threat of physical harm to others or (ii) the local school board or the division superintendent or his designee finds that aggravating circumstances exist, as defined by the Department.

C. Any student for whom the division superintendent of the school division in which such student is enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction for an offense listed in subsection G of § 16.1-260 may be suspended or expelled from school attendance pursuant to this article.

D. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of § 22.1-277.04, 22.1-277.05, or 22.1-277.06.

E. No school board shall suspend or expel any student who holds a valid written certification for the use of cannabidiol oil or THC-A oil issued by a practitioner in accordance with subsection B of § 54.1-3408.3 for the possession or use of such oil in accordance with the student's individualized health plan and in compliance with the school board policy adopted pursuant to § 22.1-274.5.

2. That the Department of Health Professions, in coordination with the Department of Education,

60 shall develop and make available to school boards a standardized form that is to be completed by
61 a practitioner who issues a written certification and a pharmaceutical processor that dispenses the
62 cannabidiol oil or THC-A oil to a student. A completed form shall identify the student; specify the
63 dosage of the cannabidiol oil or THC-A oil, the frequency in which it is to be administered, and
64 any other circumstances that may warrant its use; and provide other relevant information.