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SENATE BILL NO. 1015

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary
on February 5, 2020)

(Patron Prior to Substitute—Senator Marsden)

A BILL to amend and reenact §§ 18.2-250.1 and 54.1-3442.8 of the Code of Virginia, relating to possession of marijuana; cannabidiol oil or THC-A oil.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-250.1 and 54.1-3442.8 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-250.1. Possession of marijuana unlawful.

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is guilty of a misdemeanor and shall be confined in jail not more than 30 days and fined not more than \$500, either or both; any person, upon a second or subsequent conviction of a violation of this section, is guilty of a Class 1 misdemeanor.

B. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

C. ~~In any prosecution under~~ *The provisions of* this section involving marijuana in the form of cannabidiol oil or THC-A oil as those terms are defined in § 54.1-3408.3, ~~it shall be an affirmative defense that the individual possessed shall not apply to any person who possesses~~ such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) ~~the individual's~~ *person's* diagnosed condition or disease, (ii) if such ~~individual person~~ is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such ~~individual person~~ has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease. ~~If the individual files the valid written certification with the court at least 10 days prior to trial and causes a copy of such written certification to be delivered to the attorney for the Commonwealth, such written certification shall be prima facie evidence that such oil was possessed pursuant to a valid written certification.~~

§ 54.1-3442.8. Criminal liability; exceptions.

~~In any prosecution of an~~ *No* agent or employee of a pharmaceutical processor ~~shall be prosecuted~~ under § 18.2-248, 18.2-248.1, 18.2-250, or 18.2-250.1 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabidiol oil or THC-A oil, ~~it shall be an affirmative defense that subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if~~ such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabidiol oil or THC-A oil in accordance with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabidiol oil or THC-A oil in accordance with the provisions of this article and Board regulations. ~~If such agent or employee files a copy of the permit issued to the pharmaceutical processor pursuant to § 54.1-3442.6 with the court at least 10 days prior to trial and causes a copy of such permit to be delivered to the attorney for the Commonwealth, such permit shall be prima facie evidence that (a) such marijuana was possessed or manufactured for the purposes of producing cannabidiol oil or THC-A oil in accordance with the provisions of this article and Board regulations or (b) such cannabidiol oil or THC-A oil was possessed, manufactured, or distributed in accordance with the provisions of this article and Board regulations.~~