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HOUSE BILL NO. 1848

Offered January 13, 2025

Prefiled January 6, 2025

A BILL to amend and reenact § 18.2-250 of the Code of Virginia, relating to possession of controlled substances unlawful; second or subsequent conviction; mandatory minimum.

Patron—Arnold

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-250 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-250. Possession of controlled substances unlawful.

A. It is unlawful for any person knowingly or intentionally to possess a controlled substance 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 a violation of this section, ownership or occupancy of a premises or vehicle upon or in which a controlled substance was found shall not create a presumption that such person either knowingly or intentionally possessed such controlled substance.

(a) 1. a. Any person who violates this section with respect to any controlled substance classified in Schedule I or II of the Drug Control Act shall be is guilty of a Class 5 felony, except that any person other than an inmate of a penal institution as defined in § 53.1-1 or in the custody of an employee thereof who violates this section with respect to a cannabimimetic agent is guilty of a Class 1 misdemeanor.

b. The sentence of any person convicted of a second offense within less than five years with respect to any controlled substance classified in Schedule I or II of the Drug Control Act shall include a mandatory minimum sentence of 20 days and a mandatory minimum fine of \$500.

c. The sentence of any person convicted of a second offense within five to 10 years with respect to any controlled substance classified in Schedule I or II of the Drug Control Act shall include a mandatory minimum sentence of 45 days and a mandatory minimum fine of \$500.

d. The sentence of any person convicted of a third offense within 10 years with respect to any controlled substance classified in Schedule I or II of the Drug Control Act shall include a mandatory minimum sentence of 90 days and a mandatory minimum fine of \$500, unless the three offenses were committed within a five-year period, in which case the sentence shall include a mandatory minimum sentence of six months and a mandatory minimum fine of \$1,000.

e. The sentence of any person convicted of a fourth or subsequent offense within 10 years with respect to any controlled substance classified in Schedule I or II of the Drug Control Act shall include a mandatory minimum sentence of one year and a mandatory minimum fine of \$1,000.

f. The driver's license of any person found to have violated this section with respect to any controlled substance classified in Schedule I or II of the Drug Control Act (i) may be suspended for a period of up to 30 days for the first offense and (ii) shall be suspended for a period of 30 days for a second or subsequent offense.

(b) 2. Any person other than an inmate of a penal institution as defined in § 53.1-1 or in the custody of an employee thereof, who violates this section with respect to a controlled substance classified in Schedule III shall be of the Drug Control Act is guilty of a Class 1 misdemeanor.

(b1) 3. Violation of this section with respect to a controlled substance classified in Schedule IV of the Drug Control Act shall be punishable as a Class 2 misdemeanor.

(b2) 4. Violation of this section with respect to a controlled substance classified in Schedule V of the Drug Control Act shall be punishable as a Class 3 misdemeanor.

(e) 5. Violation of this section with respect to a controlled substance classified in Schedule VI of the Drug Control Act shall be punishable as a Class 4 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, when such members or officers are certified as handlers of dogs trained in the detection of controlled substances when and possession of a controlled substance or substances is necessary in the performance of their duties.

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 of the Code of Virginia, the estimated amount of the necessary appropriation is \$4,356,234 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.