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HOUSE BILL NO. 1432
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by Delegate Mehta
 on February 16, 2026)

(Patron Prior to Substitute—Delegate Mehta)

A BILL to amend and reenact §§ 4.1-1105.1, 4.1-1109, and 19.2-188.1 of the Code of Virginia, relating to underage consumption or possession of marijuana or marijuana products; consequences; procedures.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-1105.1, 4.1-1109, and 19.2-188.1 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-1105.1. Possession of marijuana or marijuana products unlawful in certain cases; consequences; procedures.

A. No person younger than 21 years of age shall consume or possess, or attempt to consume or possess, any marijuana or marijuana products, except by any federal, state, or local law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services or (ii) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02. Any unconcealed possession of marijuana or marijuana products in violation of this section observed in plain sight by a law-enforcement officer shall be deemed contraband and may be seized by a law-enforcement officer. Any such marijuana, the lawful possession of which is not established, seized by such officer shall be forfeited and disposed of pursuant to subdivision A 2 of § 19.2-386.23. The seizure of contraband pursuant to this subsection shall be the sole penalty for a violation of subsection A. However, the provisions of § 16.1-278.6 shall apply. Additionally, for any person younger than 18 years of age who is alleged to have violated this section, the law-enforcement officer shall provide a written notification concerning such violation to the parent, guardian, or other person having legal custody of such person.

C. A person under the legal age to consume or possess marijuana or marijuana products is not capable of giving lawful consent to a search to determine a violation of this section and a law-enforcement officer shall not request that a person consent to a search for that purpose. No law-enforcement officer, as defined in § 9.1-101, shall lawfully stop, search, or seize any person, place, or thing for a violation of this section except as provided in subsection B, and no search warrant related to a violation of this section shall be issued solely on the basis of the odor of marijuana and no evidence discovered or obtained in violation of this subsection, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding. The unconcealed possession of marijuana or marijuana products in violation of this section observed in plain sight by a law-enforcement officer shall not constitute probable cause to initiate a search of a person or that person's personal property to determine any further violation of this section or any other violation of law.

D. A person who consumes or possesses marijuana or marijuana products in violation of this section shall not be subject to arrest, shall not be transported to a police station, police headquarters, or other place of law-enforcement operations, and shall not otherwise be subject to detention or be taken into custody by a law-enforcement officer at or near the location where the violation occurred, unless the person is being arrested, detained, or otherwise taken into custody for committing another violation of law for which that action is legally permitted or required.

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60 *E. The video and audio recording functions of a law-enforcement officer's body-worn camera system shall*
61 *be activated whenever the law-enforcement officer is responding to a call for service related to a violation of*
62 *this section or at the initiation of any other law enforcement or investigative encounter between an officer*
63 *and a person related to a violation or suspected violation of this section and shall remain activated until the*
64 *encounter has fully concluded and the officer leaves the scene of the encounter. The video and audio*
65 *recording functions of a body-worn camera system shall not be deactivated based on a request to deactivate*
66 *the camera by a person who is the subject of a responsive call for service or law enforcement or investigative*
67 *encounter related to a violation or suspected violation of this section.*

68 **§ 4.1-1109. Consuming or possessing marijuana or marijuana products in or on public school**
69 **grounds; penalty.**

70 A. No person shall possess or consume any marijuana or marijuana product in or upon the grounds of any
71 public elementary or secondary school during school hours or school or student activities.

72 B. In addition, no person shall consume and no organization shall serve any marijuana or marijuana
73 products in or upon the grounds of any public elementary or secondary school after school hours or school or
74 student activities.

75 C. Any person 21 years of age or older convicted of a violation of this section is guilty of a Class 2
76 misdemeanor. Any person younger than 21 years of age alleged to have violated this section shall be subject
77 to the provisions of § 4.1-1105.1.

78 D. In addition to the provisions of § 4.1-1105.1, each school principal or his designee shall notify the
79 parent or guardian to any student enrolled in the relevant public elementary or secondary school within 24
80 hours of any alleged violation of this section. The parental notification shall include information that is
81 available at the time on (a) the name or any identifiable features of the marijuana or marijuana products and
82 (b) whether the confirmed or suspected violation occurred on school premises during regular school hours or
83 during school-sanctioned activities on school premises. The school principal or his designee shall use
84 methods of communication for such parental notifications that are considered regular forms of
85 communication for other schoolwide notifications.

86 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

87 ~~A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1~~
88 ~~(§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer~~
89 ~~shall be permitted to testify as to the results of field tests that have been approved by the Department of~~
90 ~~Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act~~
91 ~~(§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is~~
92 ~~a controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247.~~

93 ~~B. In any trial for a violation of § 4.1-1105.1, any law-enforcement officer shall be permitted to testify as~~
94 ~~to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic~~
95 ~~Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et~~
96 ~~seq.); regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the~~
97 ~~defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be~~
98 ~~on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.~~

99 ~~In any case in which the person accused of a violation of § 4.1-1105.1, or the attorney of record for the~~
100 ~~accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before~~
101 ~~the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall~~
102 ~~order that the analysis be performed by the Department of Forensic Science in accordance with the provisions~~
103 ~~of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of evidence~~
104 ~~submitted for chemical analysis.~~