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HOUSE BILL NO. 1513

Offered January 11, 2023

Prefiled January 4, 2023

A BILL to amend and reenact § 18.2-250 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-251.5, relating to possession, dispensing, or distribution of psilocybin for certain medical purposes; penalty.

Patron—Adams, D.M.

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 and that the Code of Virginia is amended by adding a section numbered 18.2-251.5 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 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) ~~Any~~ Except as provided in subdivision (d), 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) 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~~ is guilty of a Class 1 misdemeanor.

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

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

(c) Violation of this section with respect to a controlled substance classified in Schedule VI shall be punishable as a Class 4 misdemeanor.

(d) Any person who violates this section with respect to psilocybin is guilty of a Class 2 misdemeanor and shall be not be incarcerated for more than 30 days or fined more than \$500, either or both. A second or subsequent violation of this section with respect to psilocybin is 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 a controlled substance or substances is necessary in the performance of their duties.

§ 18.2-251.5. Possession or distribution of psilocybin for certain medical purposes permitted.

A. No person shall be prosecuted under § 18.2-250 for possession of psilocybin when such possession occurs pursuant to a valid prescription or order issued by a medical practitioner in the course of his professional practice for treatment of refractory depression or post-traumatic stress disorder or to ameliorate end-of-life anxiety.

B. No medical practitioner shall be prosecuted under § 18.2-248 for dispensing or distributing psilocybin for medical purposes when such action occurs in the course of his professional practice for treatment of refractory depression or post-traumatic stress disorder or to ameliorate end-of-life anxiety.

C. No pharmacist shall be prosecuted under § 18.2-248 for dispensing or distributing psilocybin to any person who holds a valid prescription of a medical practitioner for such substance issued in the course of such practitioner's professional practice for treatment of refractory depression or post-traumatic stress disorder or to ameliorate end-of-life anxiety.

INTRODUCED

HB1513