
By: **Senators Hughes, Conway, Della, Exum, Forehand, Gladden, Hollinger,
Jones, Lawlah, and McFadden**
Introduced and read first time: February 4, 2005
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substance Crimes - Minimum Penalties - Repeal**

3 FOR the purpose of repealing certain minimum penalties for certain repeat offenders
4 of crimes involving certain controlled dangerous substances; increasing certain
5 maximum penalties for certain repeat offenders of crimes involving certain
6 controlled dangerous substances; and generally relating to penalties for
7 controlled dangerous substance crimes.

8 BY repealing and reenacting, with amendments,
9 Article - Criminal Law
10 Section 5-607 through 5-609
11 Annotated Code of Maryland
12 (2002 Volume and 2004 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Criminal Law**

16 5-607.

17 (a) Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who
18 violates a provision of §§ 5-602 through 5-606 of this subtitle is guilty of a felony and
19 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
20 \$15,000 or both.

21 (b) [(1)] A person who has been convicted previously under subsection (a) of
22 this section [shall be sentenced to imprisonment for not less than 2 years.

23 (2) The court may not suspend the mandatory minimum sentence to less
24 than 2 years.

25 (3) Except as provided in § 4-305 of the Correctional Services Article, the
26 person is not eligible for parole during the mandatory minimum sentence] IS

1 SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING
2 \$25,000 OR BOTH.

3 5-608.

4 (a) Except as otherwise provided in this section, a person who violates a
5 provision of §§ 5-602 through 5-606 of this subtitle with respect to a Schedule I or
6 Schedule II narcotic drug is guilty of a felony and on conviction is subject to
7 imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both.

8 (b) (1) A person who is convicted under subsection (a) of this section or of
9 conspiracy to commit a crime included in subsection (a) of this section [shall be
10 sentenced to imprisonment for not less than 10 years and is subject to a fine not
11 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A
12 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has been convicted
13 once:

14 (i) under subsection (a) of this section or § 5-609 of this subtitle;

15 (ii) of conspiracy to commit a crime included in subsection (a) of this
16 section or § 5-609 of this subtitle; or

17 (iii) of a crime under the laws of another state or the United States
18 that would be a crime included in subsection (a) of this section or § 5-609 of this
19 subtitle if committed in this State.

20 (2) [The court may not suspend the mandatory minimum sentence to
21 less than 10 years.

22 (3) Except as provided in § 4-305 of the Correctional Services Article, the
23 person is not eligible for parole during the mandatory minimum sentence.

24 (4)] A person convicted under subsection (a) of this section is not
25 prohibited from participating in a drug treatment program under § 8-507 of the
26 Health - General Article because of the length of the sentence.

27 (c) (1) A person who is convicted under subsection (a) of this section or of
28 conspiracy to commit a crime included in subsection (a) of this section [shall be
29 sentenced to imprisonment for not less than 25 years and is subject to a fine not
30 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 35 YEARS OR A
31 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously:

32 (i) has served at least one term of confinement of at least 180 days
33 in a correctional institution as a result of a conviction under subsection (a) of this
34 section, § 5-609 of this subtitle, or § 5-614 of this subtitle; and

35 (ii) has been convicted twice, if the convictions arise from separate
36 occasions:

- 1 under subsection (a) of this section or § 5-609 of this
2 subtitle;
- 3 2. of conspiracy to commit a crime included in subsection (a)
4 of this section or § 5-609 of this subtitle;
- 5 3. of a crime under the laws of another state or the United
6 States that would be a crime included in subsection (a) of this section or § 5-609 of
7 this subtitle if committed in this State; or
- 8 4. of any combination of these crimes.

9 (2) [The court may not suspend any part of the mandatory minimum
10 sentence of 25 years.

11 (3) Except as provided in § 4-305 of the Correctional Services Article, the
12 person is not eligible for parole during the mandatory minimum sentence.

13 (4)] A separate occasion is one in which the second or succeeding crime is
14 committed after there has been a charging document filed for the preceding crime.

15 (d) [(1)] A person who is convicted under subsection (a) of this section or of
16 conspiracy to commit a crime included in subsection (a) of this section [shall be
17 sentenced to imprisonment for not less than 40 years and is subject to a fine not
18 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 40 YEARS OR A
19 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has served three or
20 more separate terms of confinement as a result of three or more separate convictions:

21 [(i)] (1) under subsection (a) of this section or § 5-609 of this
22 subtitle;

23 [(ii)] (2) of conspiracy to commit a crime included in subsection (a)
24 of this section or § 5-609 of this subtitle;

25 [(iii)] (3) of a crime under the laws of another state or the United
26 States that would be a crime included in subsection (a) of this section or § 5-609 of
27 this subtitle if committed in this State; or

28 [(iv)] (4) of any combination of these crimes.

29 [(2) The court may not suspend any part of the mandatory minimum
30 sentence of 40 years.

31 (3) Except as provided in § 4-305 of the Correctional Services Article, the
32 person is not eligible for parole during the mandatory minimum sentence.]

33 5-609.

34 (a) Except as otherwise provided in this section, a person who violates a
35 provision of §§ 5-602 through 5-606 of this subtitle with respect to any of the
36 following controlled dangerous substances is guilty of a felony and on conviction is

1 subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or
2 both:

- 3 (1) phencyclidine;
- 4 (2) 1-(1-phenylcyclohexyl) piperidine;
- 5 (3) 1-phenylcyclohexylamine;
- 6 (4) 1-piperidinocyclohexanecarbonitrile;
- 7 (5) N-ethyl-1-phenylcyclohexylamine;
- 8 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;
- 9 (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- 10 (8) lysergic acid diethylamide; or
- 11 (9) 750 grams or more of 3, 4-methylenedioxymethamphetamine
12 (MDMA).

13 (b) (1) A person who is convicted under subsection (a) of this section or of
14 conspiracy to commit a crime included in subsection (a) of this section [shall be
15 sentenced to imprisonment for not less than 10 years and is subject to a fine not
16 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A
17 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has been convicted
18 once:

- 19 (i) under subsection (a) of this section or § 5-608 of this subtitle;
- 20 (ii) of conspiracy to commit a crime included in subsection (a) of this
21 section or § 5-608 of this subtitle;
- 22 (iii) of a crime under the laws of another state or the United States
23 that would be a crime included in subsection (a) of this section or § 5-608 of this
24 subtitle if committed in this State; or
- 25 (iv) of any combination of these crimes.

26 (2) [The court may not suspend the mandatory minimum sentence to
27 less than 10 years.

28 (3) Except as provided in § 4-305 of the Correctional Services Article, the
29 person is not eligible for parole during the mandatory minimum sentence.

30 (4) A person convicted under subsection (a) of this section is not
31 prohibited from participating in a drug treatment program under § 8-507 of the
32 Health - General Article because of the length of the sentence.

1 (c) (1) A person who is convicted under subsection (a) of this section or of
2 conspiracy to commit a crime included in subsection (a) of this section [shall be
3 sentenced to imprisonment for not less than 25 years and is subject to a fine not
4 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 35 YEARS OR A
5 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously:

6 (i) has served at least one term of confinement of at least 180 days
7 in a correctional institution as a result of a conviction under subsection (a) of this
8 section, § 5-608 of this subtitle, or § 5-614 of this subtitle; and

9 (ii) if the convictions do not arise from a single incident, has been
10 convicted twice:

11 1. under subsection (a) of this section or § 5-608 of this
12 subtitle;

13 2. of conspiracy to commit a crime included in subsection (a)
14 of this section or § 5-608 of this subtitle;

15 3. of a crime under the laws of another state or the United
16 States that would be a crime included in subsection (a) of this section or § 5-608 of
17 this subtitle if committed in this State; or

18 4. of any combination of these crimes.

19 (2) [The court may not suspend any part of the mandatory minimum
20 sentence of 25 years.

21 (3) Except as provided in § 4-305 of the Correctional Services Article, the
22 person is not eligible for parole during the mandatory minimum sentence.

23 (4)] A separate occasion is one in which the second or succeeding crime is
24 committed after there has been a charging document filed for the preceding crime.

25 (d) [(1)] A person who is convicted under subsection (a) of this section or of
26 conspiracy to commit a crime included in subsection (a) of this section [shall be
27 sentenced to imprisonment for not less than 40 years and is subject to a fine not
28 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 40 YEARS OR A
29 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has served three
30 separate terms of confinement as a result of three separate convictions:

31 [(i)] (1) under subsection (a) of this section or § 5-608 of this
32 subtitle;

33 [(ii)] (2) of conspiracy to commit a crime included in subsection (a)
34 of this section or § 5-608 of this subtitle;

35 [(iii)] (3) of a crime under the laws of another state or the United
36 States that would be a crime included in subsection (a) of this section or § 5-608 of
37 this subtitle if committed in this State; or

1 [(iv)] (4) of any combination of these crimes.

2 [(2) The court may not suspend any part of the mandatory minimum
3 sentence of 40 years.

4 (3) Except as provided in § 4-305 of the Correctional Services Article, the
5 person is not eligible for parole during the mandatory minimum sentence.]

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2005.