

HOUSE BILL 364

E2
HB 410/06 – JUD

71r0315

By: **Delegate Simmons**

Introduced and read first time: February 2, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substance Offenses – Subsequent Offender Penalties –**
3 **Incarceration in Another Jurisdiction**

4 FOR the purpose of providing that the enhanced penalties for a third time offender
5 who has committed certain controlled dangerous substance offenses apply if the
6 person serves a term of confinement of a certain number of days in a
7 correctional institution as a result of a conviction of a crime under the laws of
8 another state or the United States that would be a crime under certain
9 provisions if committed in this State; and generally relating to subsequent
10 offender penalties.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 5–608 and 5–609
14 Annotated Code of Maryland
15 (2002 Volume and 2006 Supplement)

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

18 **Article – Criminal Law**

19 5–608.

20 (a) Except as otherwise provided in this section, a person who violates a
21 provision of §§ 5–602 through 5–606 of this subtitle with respect to a Schedule I or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Schedule II narcotic drug is guilty of a felony and on conviction is subject to
2 imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both.

3 (b) (1) A person who is convicted under subsection (a) of this section or of
4 conspiracy to commit a crime included in subsection (a) of this section shall be
5 sentenced to imprisonment for not less than 10 years and is subject to a fine not
6 exceeding \$100,000 if the person previously has been convicted once:

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

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

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

14 (2) The court may not suspend the mandatory minimum sentence to
15 less than 10 years.

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

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

21 (c) (1) A person who is convicted under subsection (a) of this section or of
22 conspiracy to commit a crime included in subsection (a) of this section shall be
23 sentenced to imprisonment for not less than 25 years and is subject to a fine not
24 exceeding \$100,000 if the person previously:

25 (i) has served at least one term of confinement of at least 180
26 days in a correctional institution as a result of:

27 **1.** a conviction under subsection (a) of this section, §
28 5-609 of this subtitle, or § 5-614 of this subtitle; **OR**

29 **2. A CONVICTION OF A CRIME UNDER THE LAWS OF**
30 **ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME INCLUDED**

1 **IN SUBSECTION (A) OF THIS SECTION, § 5-609 OF THIS SUBTITLE, OR § 5-614 OF**
2 **THIS SUBTITLE IF COMMITTED IN THIS STATE; and**

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

5 1. under subsection (a) of this section or § 5-609 of this
6 subtitle;

7 2. of conspiracy to commit a crime included in subsection
8 (a) of this section or § 5-609 of this subtitle;

9 3. of a crime under the laws of another state or the
10 United States that would be a crime included in subsection (a) of this section or §
11 5-609 of this subtitle if committed in this State; or

12 4. of any combination of these crimes.

13 (2) The court may not suspend any part of the mandatory minimum
14 sentence of 25 years.

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

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

19 (d) (1) A person who is convicted under subsection (a) of this section or of
20 conspiracy to commit a crime included in subsection (a) of this section shall be
21 sentenced to imprisonment for not less than 40 years and is subject to a fine not
22 exceeding \$100,000 if the person previously has served three or more separate terms
23 of confinement as a result of three or more separate convictions:

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

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

28 (iii) of a crime under the laws of another state or the United
29 States that would be a crime included in subsection (a) of this section or § 5-609 of this
30 subtitle if committed in this State; or

1 (iv) 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,
5 the person is not eligible for parole during the mandatory minimum sentence.

6 5–609.

7 (a) Except as otherwise provided in this section, a person who violates a
8 provision of §§ 5–602 through 5–606 of this subtitle with respect to any of the
9 following controlled dangerous substances is guilty of a felony and on conviction is
10 subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or
11 both:

12 (1) phencyclidine;

13 (2) 1–(1–phenylcyclohexyl) piperidine;

14 (3) 1–phenylcyclohexylamine;

15 (4) 1–piperidinocyclohexanecarbonitrile;

16 (5) N–ethyl–1–phenylcyclohexylamine;

17 (6) 1–(1–phenylcyclohexyl)–pyrrolidine;

18 (7) 1–(1–(2–thienyl)–cyclohexyl)–piperidine;

19 (8) lysergic acid diethylamide; or

20 (9) 750 grams or more of 3, 4–methylenedioxymethamphetamine
21 (MDMA).

22 (b) (1) A person who is convicted under subsection (a) of this section or of
23 conspiracy to commit a crime included in subsection (a) of this section shall be
24 sentenced to imprisonment for not less than 10 years and is subject to a fine not
25 exceeding \$100,000 if the person previously has been convicted once:

26 (i) under subsection (a) of this section or § 5–608 of this
27 subtitle;

1 (ii) of conspiracy to commit a crime included in subsection (a) of
2 this section or § 5–608 of this subtitle;

3 (iii) of a crime under the laws of another state or the United
4 States that would be a crime included in subsection (a) of this section or § 5–608 of this
5 subtitle if committed in this State; or

6 (iv) of any combination of these crimes.

7 (2) The court may not suspend the mandatory minimum sentence to
8 less than 10 years.

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

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

14 (c) (1) A person who is convicted under subsection (a) of this section or of
15 conspiracy to commit a crime included in subsection (a) of this section shall be
16 sentenced to imprisonment for not less than 25 years and is subject to a fine not
17 exceeding \$100,000 if the person previously:

18 (i) has served at least one term of confinement of at least 180
19 days in a correctional institution as a result of:

20 **1. a conviction under subsection (a) of this section, §**
21 **5–608 of this subtitle, or § 5–614 of this subtitle; OR**

22 **2. A CONVICTION OF A CRIME UNDER THE LAWS OF**
23 **ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME INCLUDED**
24 **IN SUBSECTION (A) OF THIS SECTION, § 5–608 OF THIS SUBTITLE, OR § 5–614 OF**
25 **THIS SUBTITLE IF COMMITTED IN THIS STATE; and**

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

28 1. under subsection (a) of this section or § 5–608 of this
29 subtitle;

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

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

6 4. of any combination of these crimes.

7 (2) The court may not suspend any part of the mandatory minimum
8 sentence of 25 years.

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

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

13 (d) (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 40 years and is subject to a fine not
16 exceeding \$100,000 if the person previously has served three separate terms of
17 confinement as a result of three separate convictions:

18 (i) under subsection (a) of this section or § 5–608 of this
19 subtitle;

20 (ii) of conspiracy to commit a crime included in subsection (a) of
21 this section or § 5–608 of this subtitle;

22 (iii) of a crime under the laws of another state or the United
23 States 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 any part of the mandatory minimum
27 sentence of 40 years.

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2007.