

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 483  
Judiciary

(Delegate Vitale, *et al.*)

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Criminal Law - Controlled Dangerous Substances - "N-Bomb"

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This bill codifies the following chemical substances to the State's list of Schedule I controlled dangerous substances: Alpha-ethyltryptamine and 4-Bromo-2, 5-dimethoxyphenethylamine.

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Fiscal Summary

**State Effect:** None. The substances listed under the bill are already on the federal and State lists of Schedule I substances.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** Controlled dangerous substances are listed on one of five schedules (Schedules I through V) set forth in statute depending on their potential for abuse and acceptance for medical use. Under the federal Controlled Dangerous Substances Act, for a drug or substance to be classified as Schedule I, the following findings must be made: (1) the substance has a high potential for abuse; (2) the drug or other substance has no currently accepted medical use in the United States; and (3) there is a lack of accepted safety for use of the drug or other substance under medical supervision.

No distinction is made in the law regarding the illegal possession of any controlled dangerous substance, regardless of which schedule it is on, with the exception of marijuana.

In general, a defendant in possession of marijuana is guilty of a misdemeanor and subject to imprisonment for up to one year and/or a fine of up to \$1,000. However, pursuant to Chapters 193 and 194 of 2012 (SB 214/HB 350), a person in possession of less than 10 grams of marijuana is subject to a reduced penalty of imprisonment for up to 90 days and/or a maximum fine of \$500.

The use or possession of less than 10 grams of marijuana may not be considered a lesser included crime of any other crime unless specifically charged by the State. If a person is convicted of possessing less than 10 grams of marijuana, the court must stay any imposed sentence that includes an unserved, nonsuspended period of imprisonment without requiring an appeal bond (1) until the time for filing an appeal has expired and (2) during the pendency of a filed appeal of the conviction.

If the court finds that the defendant used or possessed marijuana out of medical necessity, the maximum punishment is a \$100 fine. An affirmative defense is available to defendants for use or possession of marijuana or related paraphernalia due to a debilitating medical condition.

The use or possession of a controlled dangerous substance other than marijuana is a misdemeanor with maximum criminal penalties of four years imprisonment and/or a \$25,000 fine.

For information on additional primary crimes involving controlled dangerous substances, please refer to the **Appendix – Primary Crimes Involving Controlled Dangerous Substances**.

**Background:** The substances codified to the State’s list of Schedule I controlled dangerous substances by this bill also go by the names “AET,” “ET,” “Trip,” “2C-B,” and “Nexus.” 2C-B (4-Bromo-2, 5-dimethoxyphenethylamine) is a synthetic hallucinogen that was popular at one point on the club scene. It was added to the federal government’s list of Schedule I controlled dangerous substances in 1995. Alpha-ethyltryptamine is a tryptamine hallucinogen that the Drug Enforcement Administration placed on Schedule I in 1994.

“N-bomb,” which is mentioned in the title of the bill, is a synthetic drug that gets its name from its chemical structure (4-Iodo-2, 5-dimethoxy-N-[(2-methoxyphenyl) methyl]-benzeneethanamine, among other chemical names). N-bomb is a hallucinogenic drug sold on the Internet primarily from China. N-bomb produces LSD-like effects and also has the potential to induce uncontrollable psychotic episodes. According to news reports, at least two states have enacted laws banning “N-Bomb.”

In recent years, the public has seen the proliferation of new synthetic, designer drugs, with innocent names like “bath salts,” “spice,” and “smiles,” that until recently could be found at local convenience stores or smoke shops and remain widely available over the

Internet. The popularity and availability of these substances has grown in recent years, and criminal enforcement of the sale and possession of these substances has been challenging, since manufacturers can elude legal bans on products by making slight changes to their chemical structures.

On July 9, 2012, President Obama signed the Synthetic Drug Abuse Prevention Act of 2012 (SDAPA). This legislation bans compounds found in synthetic stimulants, synthetic marijuana, and synthetic hallucinogens. These designer drugs are now on the Drug Enforcement Agency's list of Schedule I controlled dangerous substances, making it a federal crime to manufacture, possess, distribute, import, or export these chemicals or products containing them. In announcing the signing of the Act, the Office of National Drug Control Policy encouraged states that have not already done so to incorporate these substances into their state drug schedules "to ensure that state law enforcement agencies have full authority to act against these substances."

In 2012 Maryland enacted Chapter 384 (HB 589), adding the chemical compounds in "bath salts" to the State's Schedule I. Additionally, under Maryland law, if the federal government places a substance on Schedule I, it is automatically considered a Schedule I substance in the State unless the Department of Health and Mental Hygiene (DHMH) objects to the designation. Since DHMH has not raised objections to the substances listed under this bill and the substances included in SDAPA, all of those substances are illegal in Maryland.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Governor's Office of Crime Control and Prevention, Judiciary (Administrative Office of the Courts), stltoday.com, U.S. Department of Justice, Department of Health and Mental Hygiene, Drug Enforcement Administration, Code of Virginia, Department of Legislative Services

**Fiscal Note History:** First Reader - February 1, 2013  
mc/kdm

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## **Appendix – Additional Primary Crimes Involving Controlled Dangerous Substances**

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For specified primary crimes involving controlled dangerous substances and paraphernalia, a person may not:

- distribute, dispense, or possess with the intent to distribute a controlled dangerous substance;
- manufacture a controlled dangerous substance or manufacture, distribute, or possess a machine, equipment, or device that is adapted to produce a controlled dangerous substance with the intent to use it to produce, sell, or dispense a controlled dangerous substance;
- create, distribute, or possess with the intent to distribute a counterfeit substance;
- manufacture, distribute, or possess equipment designed to render a counterfeit substance;
- keep a common nuisance (any place resorted to for the purpose of illegally administering controlled dangerous substances or where such substances or controlled paraphernalia are illegally manufactured, distributed, dispensed, stored, or concealed); or
- pass, issue, make, or possess a false, counterfeit, or altered prescription for a controlled dangerous substance with the intent to distribute the controlled dangerous substance.

**Exhibit 1** contains the applicable sentences for these crimes.

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**Exhibit 1**  
**Penalties for Distribution of Controlled Dangerous Substances (CDS)**  
**and Related Offenses**

**Offense**

**Current Penalty**

**CDS (Other than Schedule I or II Narcotic Drugs and Other Specified CDS)**

First-time Offender – CDS (other than Schedule I or II narcotic drugs and other specified CDS)	Maximum penalty of 5 years imprisonment and/or \$15,000 fine
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Repeat Offender – CDS (other than Schedule I or II narcotic drugs and other specified CDS)	2-year mandatory minimum sentence Maximum penalty of 5 years imprisonment and/or \$15,000 fine
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**CDS (Schedule I or II Narcotic Drug)**

First-time Offender – Schedule I or II narcotic drug	Maximum penalty of 20 years imprisonment and/or \$25,000 fine
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Second-time Offender – Schedule I or II narcotic drug	10-year mandatory minimum sentence (20 years maximum imprisonment) and a fine of up to \$100,000
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Third-time Offender – Schedule I or II narcotic drug	25-year mandatory minimum sentence and a fine of up to \$100,000
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Fourth-time Offender – Schedule I or II narcotic drug	40-year mandatory minimum sentence and a fine of up to \$100,000
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**CDS (Specified Drugs)**

First-time Offender – Specified Drugs	Maximum penalty of 20 years imprisonment and/or a fine of up to \$20,000
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Second-time Offender – Specified Drugs	10-year mandatory minimum sentence (20 years maximum imprisonment) and a fine of up to \$100,000
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Third-time Offender – Specified Drugs	25-year mandatory minimum sentence and a fine of up to \$100,000
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Fourth-time Offender – Specified Drugs	40-year mandatory minimum sentence and a fine of up to \$100,000
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Note: All mandatory minimum sentences listed in the exhibit are nonsuspendable and nonparolable.

Source: Department of Legislative Services

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