

SENATE BILL 870

E1

4r3039
CF 4r0556

By: **Senator Benson**

Introduced and read first time: January 31, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Drug Paraphernalia Near School Property – Penalties**

3 FOR the purpose of prohibiting a person from committing a certain crime relating to
4 the delivery or sale of drug paraphernalia in a certain school vehicle or in, on, or
5 within a certain distance from certain school–related real property used for
6 elementary or secondary education; establishing a certain penalty; making
7 certain stylistic and conforming changes; and generally relating to the unlawful
8 delivery or sale of drug paraphernalia near school property.

9 BY repealing and reenacting, without amendments,
10 Article – Criminal Law
11 Section 5–619(d)
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2013 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 5–627
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2013 Supplement)

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

21 **Article – Criminal Law**

22 5–619.

23 (d) (1) Unless authorized under this title, a person may not deliver or sell,
24 or manufacture or possess with intent to deliver or sell, drug paraphernalia, knowing,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 or under circumstances where one reasonably should know, that the drug
2 paraphernalia will be used to:

3 (i) plant, propagate, cultivate, grow, harvest, manufacture,
4 compound, convert, produce, process, prepare, test, analyze, pack, repack, store,
5 contain, or conceal a controlled dangerous substance; or

6 (ii) inject, ingest, inhale, or otherwise introduce into the human
7 body a controlled dangerous substance.

8 (2) A person who violates this subsection is guilty of a misdemeanor
9 and on conviction is subject to:

10 (i) for a first violation, a fine not exceeding \$500; and

11 (ii) for each subsequent violation, imprisonment not exceeding 2
12 years or a fine not exceeding \$2,000 or both.

13 (3) A person who is convicted of violating this subsection for the first
14 time and who previously has been convicted of violating paragraph (4) of this
15 subsection is subject to imprisonment not exceeding 2 years or a fine not exceeding
16 \$2,000 or both.

17 (4) If a person who is at least 18 years old violates paragraph (1) of
18 this subsection by delivering drug paraphernalia to a minor who is at least 3 years
19 younger than the person, the person is guilty of a separate misdemeanor and on
20 conviction is subject to imprisonment not exceeding 8 years or a fine not exceeding
21 \$15,000 or both.

22 5-627.

23 (a) A person may not manufacture, distribute, dispense, or possess with
24 intent to distribute a controlled dangerous substance in violation of § 5-602 of this
25 subtitle or conspire to commit any of these crimes:

26 (1) in a school vehicle, as defined under § 11-154 of the
27 Transportation Article; or

28 (2) in, on, or within 1,000 feet of real property owned by or leased to
29 an elementary school, A secondary school, or A county board and used for elementary
30 or secondary education.

31 (b) **A PERSON MAY NOT DELIVER OR SELL, OR MANUFACTURE OR**
32 **POSSESS WITH INTENT TO DELIVER OR SELL, DRUG PARAPHERNALIA IN**
33 **VIOLATION OF § 5-619(D) OF THIS SUBTITLE:**

1 **(1) IN A SCHOOL VEHICLE, AS DEFINED UNDER § 11-154 OF THE**
2 **TRANSPORTATION ARTICLE; OR**

3 **(2) IN, ON, OR WITHIN 1,000 FEET OF REAL PROPERTY OWNED BY**
4 **OR LEASED TO AN ELEMENTARY SCHOOL, A SECONDARY SCHOOL, OR A COUNTY**
5 **BOARD AND USED FOR ELEMENTARY OR SECONDARY EDUCATION.**

6 **(C) [Subsection] SUBSECTIONS (a) AND (B) of this section [applies] APPLY**
7 **whether or not:**

8 (1) school was in session at the time of the crime; or

9 (2) the real property was being used for purposes other than school
10 purposes at the time of the crime.

11 **[(c)] (D) (1) A person who violates SUBSECTION (A) OF this section is**
12 **guilty of a felony and on conviction is subject to:**

13 (i) for a first violation, imprisonment not exceeding 20 years or
14 a fine not exceeding \$20,000 or both; or

15 (ii) for each subsequent violation, imprisonment not less than 5
16 years and not exceeding 40 years or a fine not exceeding \$40,000 or both.

17 (2) (i) The court may not suspend the 5-year minimum sentence
18 required by paragraph (1)(ii) of this subsection.

19 (ii) Except as otherwise provided in § 4-305 of the Correctional
20 Services Article, a person sentenced under paragraph (1)(ii) of this subsection is not
21 eligible for parole during this period of the 5-year minimum sentence.

22 **(3) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION**
23 **IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
24 **IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$1,000 OR**
25 **BOTH.**

26 **(4) A sentence imposed under paragraph (1) OR (3) of this subsection**
27 **shall be consecutive to any other sentence imposed.**

28 **[(d)] (E) Notwithstanding any other law, a conviction under this section**
29 **may not merge with a conviction under § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, §**
30 **5-607, § 5-608, § 5-609, § 5-612, § 5-613, § 5-619, or § 5-628 of this subtitle.**

31 **[(e)] (F) (1) In a prosecution under this section, a map or certified copy**
32 **of a map made by a county or municipal unit to depict the location and boundaries of**
33 **the area within 1,000 feet of real property owned by or leased to an elementary school,**

1 secondary school, or county board and used for school purposes is admissible as prima
2 facie evidence of the location and boundaries of the depicted area, if the governing
3 body of the county or municipal corporation approves the map or certified copy of the
4 map as an official record of the location and boundaries of the depicted area.

5 (2) The map or a certified copy of the map shall be filed with the
6 county or municipal corporation, which shall maintain the map or the certified copy of
7 the map as an official record.

8 (3) The governing body of the county or municipal corporation may
9 revise periodically the map or certified copy of the map.

10 (4) This subsection does not preclude the prosecution from introducing
11 other evidence to establish an element of a crime under this section.

12 (5) This subsection does not preclude the use or admissibility of maps
13 or diagrams other than those approved by the county or municipal corporation.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2014.