

SENATE BILL 836

E1, E4

9lr2760
CF 9lr2154

By: **Senator Carter**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Drug Paraphernalia – Prevention of HIV and Viral Hepatitis**

3 FOR the purpose of excepting drug paraphernalia that has been provided to or obtained by
4 the user or possessor as a means of preventing the spread of human
5 immunodeficiency virus (HIV) or viral hepatitis from certain prohibitions against
6 using, possessing, selling, delivering, manufacturing, and possessing with intent to
7 deliver or sell drug paraphernalia; and generally relating to drug paraphernalia.

8 BY repealing and reenacting, with amendments,

9 Article – Criminal Law

10 Section 5–619(c) and (d)

11 Annotated Code of Maryland

12 (2012 Replacement Volume and 2018 Supplement)

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

15 **Article – Criminal Law**

16 5–619.

17 (c) (1) This subsection does not apply to:

18 **(I) THE USE OR POSSESSION OF DRUG PARAPHERNALIA THAT**
19 **HAS BEEN PROVIDED TO OR OBTAINED BY THE USER OR POSSESSOR AS A MEANS OF**
20 **PREVENTING THE SPREAD OF HUMAN IMMUNODEFICIENCY VIRUS (HIV) OR VIRAL**
21 **HEPATITIS; OR**

22 **(II) the use or possession of drug paraphernalia involving the use or**
23 **possession of marijuana.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Unless authorized under this title, a person may not use or possess with
2 intent to use drug paraphernalia to:

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

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

8 (3) A person who violates this subsection is guilty of a misdemeanor and
9 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 (4) A person who is convicted of violating this subsection for the first time
14 and who previously has been convicted of violating subsection [(d)(4)](D)(5) of this section
15 is subject to the penalty specified under paragraph (3)(ii) of this subsection.

16 (d) **(1) THIS SUBSECTION DOES NOT APPLY TO THE DELIVERY OR SALE,
17 OR MANUFACTURE OR POSSESSION WITH INTENT TO DELIVER OR SELL, OF DRUG
18 PARAPHERNALIA INTENDED TO SERVE AS A MEANS OF PREVENTING THE SPREAD OF
19 HUMAN IMMUNODEFICIENCY VIRUS (HIV) OR VIRAL HEPATITIS.**

20 [(1)] (2) Unless authorized under this title, a person may not deliver or
21 sell, or manufacture or possess with intent to deliver or sell, drug paraphernalia, knowing,
22 or under circumstances where one reasonably should know, that the drug paraphernalia
23 will be used to:

24 (i) plant, propagate, cultivate, grow, harvest, manufacture,
25 compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a
26 controlled dangerous substance; or

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

29 [(2)] (3) A person who violates this subsection is guilty of a misdemeanor
30 and on conviction is subject to:

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

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

3 ~~[(3)]~~ (4) A person who is convicted of violating this subsection for the first
4 time and who previously has been convicted of violating paragraph ~~[(4)]~~ (5) of this
5 subsection is subject to imprisonment not exceeding 2 years or a fine not exceeding \$2,000
6 or both.

7 ~~[(4)]~~ (5) If a person who is at least 18 years old violates paragraph ~~[(1)]~~
8 (2) of this subsection by delivering drug paraphernalia to a minor who is at least 3 years
9 younger than the person, the person is guilty of a separate misdemeanor and on conviction
10 is subject to imprisonment not exceeding 8 years or a fine not exceeding \$15,000 or both.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2019.