

SENATE BILL 704

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0lr3445
CF HB 720

By: **Senators Carter, Feldman, Lam, and Young**

Introduced and read first time: February 3, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Drug Paraphernalia for Administration – Decriminalization**

3 FOR the purpose of repealing the prohibition against a person using or possessing with
4 intent to use drug paraphernalia to inject, ingest, inhale, or otherwise introduce into
5 the human body a controlled dangerous substance; repealing the prohibition against
6 a person delivering or selling, or manufacturing or possessing with intent to deliver
7 or sell drug paraphernalia under certain circumstances; repealing the prohibition
8 against a person possessing or distributing controlled paraphernalia under
9 circumstances which reasonably indicate an intention to use the controlled
10 paraphernalia for certain purposes; altering a list of certain items that indicate
11 intent to use certain controlled paraphernalia for certain purposes; and generally
12 relating to drug paraphernalia.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 5–619(c) and (d) and 5–620(a) and (b)
16 Annotated Code of Maryland
17 (2012 Replacement Volume and 2019 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Criminal Law
20 Section 5–620(d)
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2019 Supplement)

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

25 **Article – Criminal Law**

26 5–619.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) (1) This subsection does not apply to the use or possession of drug
2 paraphernalia involving the use or possession of marijuana.

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

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

8 (ii) inject, ingest, inhale, or otherwise introduce into the human body
9 a controlled dangerous substance].

10 (3) A person who violates this subsection is guilty of a misdemeanor and
11 on conviction is subject to:

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

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

15 (4) A person who is convicted of violating this subsection for the first time
16 and who previously has been convicted of violating subsection (d)(4) of this section is subject
17 to the penalty specified under paragraph (3)(ii) of this subsection.

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

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

25 (ii) inject, ingest, inhale, or otherwise introduce into the human body
26 a controlled dangerous substance].

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

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

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

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

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

8 5-620.

9 (a) Unless authorized under this title, a person may not[:

10 (1)] obtain or attempt to obtain controlled paraphernalia by:

11 [(i)] (1) fraud, deceit, misrepresentation, or subterfuge;

12 [(ii)] (2) counterfeiting a prescription or a written order;

13 [(iii)] (3) concealing a material fact or the use of a false name or address;

14 [(iv)] (4) falsely assuming the title of or representing to be a
15 manufacturer, distributor, or authorized provider; or

16 [(v)] (5) making or issuing a false or counterfeit prescription or written
17 order[; or

18 (2) possess or distribute controlled paraphernalia under circumstances
19 which reasonably indicate an intention to use the controlled paraphernalia for purposes of
20 illegally administering a controlled dangerous substance].

21 (b) Evidence of circumstances that reasonably indicate an intent to use controlled
22 paraphernalia to manufacture, [administer,] distribute, or dispense a controlled dangerous
23 substance unlawfully include the close proximity of the controlled paraphernalia to an
24 adulterant, diluent, or equipment commonly used to illegally manufacture, [administer,]
25 distribute, or dispense controlled dangerous substances, including:

26 (1) a scale;

27 (2) a sieve;

28 (3) a strainer;

29 (4) [a measuring spoon;

30 (5)] staples;

- 1 ~~[(6)]~~ **(5)** a stapler;
- 2 ~~[(7)]~~ **(6)** a glassine envelope;
- 3 ~~[(8)]~~ **(7)** a gelatin capsule;
- 4 ~~[(9)]~~ **(8)** procaine hydrochloride;
- 5 ~~[(10)]~~ **(9)** mannitol;
- 6 ~~[(11)]~~ **(10)** lactose;
- 7 ~~[(12)]~~ **(11)** quinine; and
- 8 ~~[(13)]~~ **(12)** a controlled dangerous substance.

9 (d) (1) Except as provided in paragraph (2) of this subsection, a person who
10 violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment
11 not exceeding 4 years or a fine not exceeding \$25,000 or both.

12 (2) A person who violates this section involving the use or possession of
13 marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000
14 or both.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2020.