
By: Delegates M. Burns, D. Murphy, and O'Donnell

Introduced and read first time: March 3, 1997

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substances - Subsequent Offenders - Penalties**

3 FOR the purpose of providing for the construction of the provision of law that requires
4 the court to impose enhanced penalties for a second violation of certain offenses
5 related to the manufacturing, distribution, or possession of certain controlled
6 dangerous substances; and generally relating to enhanced penalties for controlled
7 dangerous substances offenses.

8 BY repealing and reenacting, without amendments,
9 Article 27 - Crimes and Punishments
10 Section 286(b) and 293
11 Annotated Code of Maryland
12 (1996 Replacement Volume)

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 286(c)
16 Annotated Code of Maryland
17 (1996 Replacement Volume)

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

20 **Article 27 - Crimes and Punishments**

21 286.

22 (b) Any person who violates any of the provisions of subsection (a) of this section
23 with respect to:

24 (1) A substance classified in Schedules I or II which is a narcotic drug is
25 guilty of a felony and is subject to imprisonment for not more than 20 years, or a fine of
26 not more than \$25,000, or both.

27 (2) Phencyclidine, 1-(1-phenylcyclohexyl) piperidine,
28 1-phenylcyclohexylamine, or 1-piperidinocyclohexanecarbonitrile, classified in Schedule
29 II, or n-ethyl-1-phenylcyclohexylamine, 1-(1-phenylcyclohexyl)-pyrrolidine,
30 1-(1-(2-thienyl)-cyclohexyl)-piperidine, or lysergic acid diethylamide, classified in

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1 Schedule I, is guilty of a felony and is subject to imprisonment for not more than 20 years,
2 or a fine of not more than \$20,000, or both.

3 (3) Any other controlled dangerous substance classified in Schedule I, II,
4 III, IV, or V shall, upon conviction, be deemed guilty of a felony and sentenced to a term
5 of imprisonment for not more than 5 years or a fine of not more than \$15,000, or both.
6 Any person who has previously been convicted under this paragraph shall be sentenced to
7 imprisonment for not less than 2 years. The prison sentence of a person sentenced under
8 this paragraph as a repeat offender may not be suspended to less than 2 years, and the
9 person may be paroled during that period only in accordance with Article 31B, § 11 of the
10 Code.

11 (c) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
12 of this section, or of conspiracy to violate subsection (b)(1) or (b)(2) of this section shall
13 be sentenced to imprisonment for not less than 10 years if the person previously has been
14 convicted:

15 (i) Under subsection (b)(1) or subsection (b)(2) of this section;

16 (ii) Of conspiracy to violate subsection (b)(1) or subsection (b)(2) of
17 this section; or

18 (iii) Of an offense under the laws of another state, the District of
19 Columbia, or the United States that would be a violation of subsection (b)(1) or
20 subsection (b)(2) of this section if committed in this State.

21 (2) The prison sentence of a person sentenced under subsection (b)(1) or
22 subsection (b)(2) of this section, or of conspiracy to violate subsection (b)(1) or
23 subsection (b)(2) of this section or any combination of these offenses, as a second
24 offender may not be suspended to less than 10 years, and the person may be paroled
25 during that period only in accordance with Article 31B, § 11 of the Code.

26 (3) This subsection does not prevent, prohibit, or make ineligible a
27 convicted defendant from participating in the rehabilitation program under Title 8,
28 Subtitle 5 of the Health - General Article, because of the length of sentence, if imposed
29 under subsection (b)(1) of this section.

30 (4) THIS SUBSECTION MAY NOT BE CONSTRUED TO:

31 (I) PROHIBIT THE COURT FROM IMPOSING AN ENHANCED
32 PENALTY UNDER § 293 OF THIS SUBHEADING; OR

33 (II) PROHIBIT OR LIMIT ANY PROSECUTION FOR ANY OTHER
34 CRIMINAL OFFENSE.

35 293.

36 (a) Any person convicted of any offense under this subheading is, if the offense is
37 a second or subsequent offense, punishable by a term of imprisonment twice that
38 otherwise authorized, by twice the fine otherwise authorized, or by both.

39 (b) For purposes of this section, an offense shall be considered a second or
40 subsequent offense, if, prior to the conviction of the offense, the offender has at any time

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1 been convicted of any offense or offenses under this subheading or under any prior law of
2 this State or any law of the United States or of any other state relating to the other
3 controlled dangerous substances as defined in this subheading.

4 (c) Any person convicted of a second or subsequent offense under any law
5 superseded by this subheading shall be eligible for parole, probation, and suspension of
6 sentence in the same manner as those persons convicted under this subheading.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1997.