

(PRE-FILED)

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**By: Senator Haines**

Requested: November 4, 1996

Introduced and read first time: January 8, 1997

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 23, 1997

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Possession of Marijuana - Penalties**

3 FOR the purpose of increasing the ~~penalty~~ fine for persons convicted of a first offense of  
4 the unlawful use or possession of marijuana; increasing the penalties for persons  
5 convicted of a second or subsequent offense of the unlawful use or possession of  
6 marijuana; and generally relating to penalties involving the use and possession of  
7 controlled dangerous substances and controlled paraphernalia.

8 BY repealing and reenacting, with amendments,  
9 Article 27 - Crimes and Punishments  
10 Section 287 and 293(a)  
11 Annotated Code of Maryland  
12 (1996 Replacement Volume)

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

15 **Article 27 - Crimes and Punishments**

16 287.

17 Except as authorized by this subheading, it is unlawful for any person:

18 (a) To possess or administer to another any controlled dangerous substance,  
19 unless such substance was obtained directly, or pursuant to a valid prescription or order  
20 from a practitioner, while acting in the course of his professional practice.

21 (b) To obtain or attempt to obtain a controlled dangerous substance or controlled  
22 paraphernalia or to procure or attempt to procure the administration of any controlled

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1 dangerous substance by (1) fraud, deceit, misrepresentation or subterfuge, or (2) by the  
2 forgery or alteration of a prescription or a written order, or (3) by the concealment of any  
3 material fact or by the use of false name or address, or (4) by falsely assuming the title of  
4 or representing himself to be a manufacturer, distributor or practitioner, or (5) by making  
5 or uttering any false or forged prescription or written order.

6 Information communicated to a physician in an effort to obtain controlled  
7 dangerous substances or controlled paraphernalia in violation of the provisions of this  
8 subsection shall not be deemed a privileged communication.

9 (c) To affix any false or forged label to a package, container or other receptacle  
10 containing any controlled dangerous substance, or to omit, remove, alter or obliterate any  
11 label or symbol on any such controlled dangerous substance as required by the federal,  
12 State, or local law.

13 (d) To possess or distribute controlled paraphernalia, which shall mean:

14 (1) A hypodermic syringe, needle or other instrument or implement or  
15 combination thereof adapted for the administration of controlled dangerous substances  
16 by hypodermic injections under circumstances which reasonably indicate an intention to  
17 use such controlled paraphernalia for purposes of illegally administering any controlled  
18 dangerous substance;

19 (2) Gelatin capsules, glassine envelopes or any other container suitable for  
20 the packaging of individual quantities of controlled dangerous substances in sufficient  
21 quantity to and under circumstances which reasonably indicate an intention to use any  
22 such item for the illegal manufacture, distribution, or dispensing of any such controlled  
23 dangerous substance. Evidence of such circumstances shall include but not be limited to  
24 close proximity of any such controlled paraphernalia to any adulterants or equipment  
25 commonly used in the illegal manufacture and distribution of controlled dangerous  
26 substances, such as but not limited to any of the following: scales, sieves, strainers,  
27 measuring spoons, staples and staplers, or procaine hydrochloride, mannitol, lactose,  
28 quinine, or any controlled dangerous substance; or

29 (3) Lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine  
30 hydrochloride or any other substance suitable as a diluent or adulterant in sufficient  
31 quantity and under such circumstances which reasonably indicate an intention to use any  
32 such substance for the illegal manufacture, distribution or dispensing of any controlled  
33 substance. Evidence of such circumstances shall include but not be limited to close  
34 proximity of any such controlled paraphernalia to any other adulterants, diluents or  
35 equipment commonly used in the illegal manufacture and distribution of controlled  
36 substances, such as but not limited to any of the following: scales, sieves, strainers,  
37 measuring spoons, staples and staplers, glassine envelopes, gelatin capsules, or any  
38 controlled substance.

39 (e) (1) Any EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
40 ANY person who violates this section shall, upon conviction, be deemed guilty of a  
41 misdemeanor and be sentenced to a term of imprisonment for not more than four (4)  
42 years, a fine of not more than twenty-five thousand dollars (\$25,000), or both[; provided,  
43 however, that any such person convicted of a violation of this section involving the use or

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1 possession of marihuana shall be punished by a period of imprisonment not to exceed one  
2 (1) year or by a fine not to exceed \$1,000.00, or both].

3 (2) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION  
4 INVOLVING THE USE OR POSSESSION OF MARIJUANA SHALL BE PUNISHED BY:

5 (I) FOR A FIRST OFFENSE, IMPRISONMENT FOR NOT MORE THAN 1  
6 YEAR OR A FINE NOT TO EXCEED \$10,000 OR BOTH; OR

7 (II) FOR A SECOND OR SUBSEQUENT OFFENSE, IMPRISONMENT  
8 FOR NOT MORE THAN 4 YEARS OR A FINE NOT TO EXCEED \$25,000 OR BOTH.

9 293.

10 (a) [Any] EXCEPT AS PROVIDED IN § 287(E)(2) OF THIS SUBHEADING, ANY  
11 person convicted of any offense under this subheading is, if the offense is a second or  
12 subsequent offense, punishable by a term of imprisonment twice that otherwise  
13 authorized, by twice the fine otherwise authorized, or by both.

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