
By: **Delegate Menes**
Introduced and read first time: February 10, 1999
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substances - Sentencing - Enhanced Penalties for**
3 **Subsequent Offenders**

4 FOR the purpose of allowing the court to impose enhanced penalties for certain
5 offenses relating to the manufacturing, distribution, or possession of certain
6 controlled dangerous substances; and generally relating to enhanced penalties
7 for controlled dangerous substance offenses.

8 BY repealing and reenacting, without amendments,
9 Article 27 - Crimes and Punishments
10 Section 286(a) and 293
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1998 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article 27 - Crimes and Punishments
15 Section 286(f)
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1998 Supplement)

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 (a) Except as authorized by this subheading, it is unlawful for any person:

23 (1) To manufacture, distribute, or dispense, or to possess a controlled
24 dangerous substance in sufficient quantity to reasonably indicate under all
25 circumstances an intent to manufacture, distribute, or dispense, a controlled
26 dangerous substance;

1 (2) To create, distribute, or possess with intent to distribute, a
2 counterfeit controlled dangerous substance;

3 (3) To manufacture, distribute, or possess any punch, die, plate, stone, or
4 any other equipment which is designed to print, imprint, or reproduce the trademark,
5 trade name, or other identifying mark, imprint, or device of another or any likeness of
6 any of the foregoing upon any drug or container or labeling thereof so as to render the
7 drug a counterfeit controlled dangerous substance;

8 (4) To manufacture, distribute, or possess any machine, equipment,
9 instrument, implement, device, or combination thereof which is adopted for the
10 production of controlled dangerous substances under circumstances which reasonably
11 indicate an intention to use such item or combination thereof to produce, sell, or
12 dispense any controlled dangerous substance in violation of the provisions of this
13 subheading;

14 (5) To keep or maintain any common nuisance which means any dwelling
15 house, apartment, building, vehicle, vessel, aircraft, or any place whatever which is
16 resorted to by drug abusers for purposes of illegally administering controlled
17 dangerous substances or which is used for the illegal manufacture, distribution,
18 dispensing, storage or concealment of controlled dangerous substances or controlled
19 paraphernalia, as defined in § 287(d) of this subheading; or

20 (6) To possess, pass, utter, make, or manufacture a false, forged, or
21 altered prescription or prescriptions for a controlled dangerous substance with the
22 intent to distribute the controlled dangerous substance. Information communicated to
23 an authorized prescriber in an effort to obtain a controlled dangerous substance in
24 violation of the provisions of this item shall not be deemed a privileged
25 communication.

26 (f) (1) If a person violates subsection (a)(1) of this section and the violation
27 involves any of the following controlled dangerous substances, in the amounts
28 indicated, the person is subject to the penalties provided in paragraph (3) of this
29 subsection upon conviction:

30 (i) 50 pounds or more of marijuana;

31 (ii) 448 grams or more of cocaine or 448 grams or more of any
32 mixture containing a detectable amount of cocaine;

33 (iii) 50 grams or more of cocaine base, commonly known as "crack";

34 (iv) 28 grams or more of morphine or opium or any derivative, salt,
35 isomer, or salt of an isomer of morphine or opium or any mixture containing 28 grams
36 or more of morphine or opium or any derivative, salt, isomer, or salt of an isomer of
37 morphine or opium;

38 (v) 1,000 dosage units of lysergic acid diethylamide or any mixture
39 containing the equivalent of 1,000 dosage units of lysergic acid diethylamide;

1 (vi) 16 ounces or more of phencyclidine in liquid form or 448 grams
2 or more of any mixture containing phencyclidine; or

3 (vii) 448 grams or more of methamphetamine or any mixture
4 containing 448 grams or more of methamphetamine.

5 (2) For purposes of determining the quantity of a controlled dangerous
6 substance under paragraph (1) of this subsection, the quantity of controlled
7 dangerous substances involved in individual acts of manufacturing, distribution,
8 dispensing, or possessing with intent to distribute may be aggregated if each
9 aggregate act of manufacturing, distribution, dispensing, or possessing with the
10 intent to distribute occurred within a period of 90 days.

11 (3) (i) A person convicted of violating paragraph (1) of this subsection
12 is guilty of a felony and shall be sentenced as otherwise provided for in this section,
13 except that it is mandatory upon the court to impose no less than 5 years'
14 imprisonment, and neither that term of imprisonment nor any part of it may be
15 suspended.

16 (ii) The person may not be eligible for parole except in accordance
17 with Article 31B, § 11 of the Code.

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

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

21 (II) PROHIBIT OR LIMIT ANY PROSECUTION FOR ANY OTHER
22 CRIMINAL OFFENSE.

23 293.

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

27 (b) For purposes of this section, an offense shall be considered a second or
28 subsequent offense, if, prior to the conviction of the offense, the offender has at any
29 time been convicted of any offense or offenses under this subheading or under any
30 prior law of this State or any law of the United States or of any other state relating to
31 the other controlled dangerous substances as defined in this subheading.

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

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 1999.