
By: **Delegate Franchot**
Introduced and read first time: March 5, 1999
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Distribution of Controlled Dangerous Substances - Penalties**

3 FOR the purpose of altering the maximum fine for certain second and subsequent
4 controlled dangerous substances convictions; altering the maximum fine for
5 manufacturing, distributing, dispensing, or possessing certain controlled
6 dangerous substances in certain amounts; and generally relating to the
7 penalties for controlled dangerous substances violations.

8 BY repealing and reenacting, with amendments,
9 Article 27 - Crimes and Punishments
10 Section 286
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1998 Supplement)

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**

16 286.

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

18 (1) To manufacture, distribute, or dispense, or to possess a controlled
19 dangerous substance in sufficient quantity to reasonably indicate under all
20 circumstances an intent to manufacture, distribute, or dispense, a controlled
21 dangerous substance;

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

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

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

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

13 (6) To possess, pass, utter, make, or manufacture a false, forged, or
14 altered prescription or prescriptions for a controlled dangerous substance with the
15 intent to distribute the controlled dangerous substance. Information communicated to
16 an authorized prescriber in an effort to obtain a controlled dangerous substance in
17 violation of the provisions of this item shall not be deemed a privileged
18 communication.

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

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

24 (2) Phencyclidine, 1-(1-phenylcyclohexyl) piperidine,
25 1-phenylcyclohexylamine, or 1-piperidinocyclohexanecarbonitrile, classified in
26 Schedule II, or n-ethyl-1-phenylcyclohexylamine,
27 1-(1-phenylcyclohexyl)-pyrrolidine, 1-(1-(2-thienyl)-cyclohexyl)-piperidine, or
28 lysergic acid diethylamide, classified in Schedule I, is guilty of a felony and is subject
29 to imprisonment for not more than 20 years, or a fine of not more than \$20,000, or
30 both.

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

39 (c) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
40 of this section, or of conspiracy to violate subsection (b)(1) or (b)(2) of this section shall
41 be sentenced to imprisonment for not less than 10 years AND SUBJECT TO A FINE NOT
42 EXCEEDING \$1,000,000 if the person previously has been convicted:

- 1 (i) Under subsection (b)(1) or subsection (b)(2) of this section;
- 2 (ii) Of conspiracy to violate subsection (b)(1) or subsection (b)(2) of
3 this section; or
- 4 (iii) Of an offense under the laws of another state, the District of
5 Columbia, or the United States that would be a violation of subsection (b)(1) or
6 subsection (b)(2) of this section if committed in this State.
- 7 (2) The prison sentence of a person sentenced under subsection (b)(1) or
8 subsection (b)(2) of this section, or of conspiracy to violate subsection (b)(1) or
9 subsection (b)(2) of this section or any combination of these offenses, as a second
10 offender may not be suspended to less than 10 years, and the person may be paroled
11 during that period only in accordance with Article 31B, § 11 of the Code.
- 12 (3) This subsection does not prevent, prohibit, or make ineligible a
13 convicted defendant from participating in the rehabilitation program under Title 8,
14 Subtitle 5 of the Health - General Article, because of the length of sentence, if
15 imposed under subsection (b)(1) of this section.
- 16 (d) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
17 of this section or of conspiracy to violate subsection (b)(1) or subsection (b)(2) of this
18 section shall be sentenced to imprisonment for the term allowed by law, but, in any
19 event, not less than 25 years AND SUBJECT TO A FINE NOT EXCEEDING \$1,000,000 if
20 the person previously:
- 21 (i) Has served at least 1 term of confinement of at least 180 days in
22 a correctional institution as a result of a conviction of a previous violation of this
23 section or § 286A of this article; and
- 24 (ii) Has been convicted twice, where the convictions do not arise
25 from a single incident:
- 26 1. Under subsection (b)(1) or subsection (b)(2) of this section;
- 27 2. Of conspiracy to violate subsection (b)(1) or subsection
28 (b)(2) of this section;
- 29 3. Of an offense under the laws of another state, the District
30 of Columbia, or the United States that would be a violation of subsection (b)(1) or
31 subsection (b)(2) of this section if committed in this State; or
- 32 4. Of any combination of these offenses.
- 33 (2) Neither the sentence required under paragraph (1) of this subsection
34 nor any part of it may be suspended, and the person may not be eligible for parole
35 except in accordance with Article 31B, § 11 of the Code.

1 (3) A separate occasion shall be considered one in which the second or
2 succeeding offense is committed after there has been a charging document filed for
3 the preceding offense.

4 (e) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
5 of this section or of conspiracy to violate subsection (b)(1) or subsection (b)(2) of this
6 section shall be sentenced to imprisonment for the term allowed by law, but in any
7 event, not less than 40 years AND SUBJECT TO A FINE NOT EXCEEDING \$1,000,000 if
8 the person previously has served 3 separate terms of confinement as a result of 3
9 separate convictions:

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

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

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

16 (iv) Of any combination of these offenses.

17 (2) Neither the sentence required under paragraph (1) of this subsection
18 nor any part of it may be suspended, and the person may not be eligible for parole
19 except in accordance with Article 31B, § 11 of the Code.

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

24 (i) 50 pounds or more of marijuana;

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

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

28 (iv) 28 grams or more of morphine or opium or any derivative, salt,
29 isomer, or salt of an isomer of morphine or opium or any mixture containing 28 grams
30 or more of morphine or opium or any derivative, salt, isomer, or salt of an isomer of
31 morphine or opium;

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

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

1 (vii) 448 grams or more of methamphetamine or any mixture
2 containing 448 grams or more of methamphetamine.

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

9 (3) (i) A person convicted of violating paragraph (1) of this subsection
10 is guilty of a felony and shall BE SUBJECT TO A FINE NOT EXCEEDING \$1,000,000 AND
11 SHALL be sentenced as otherwise provided for in this section, except that it is
12 mandatory upon the court to impose no less than 5 years' imprisonment, and neither
13 that term of imprisonment nor any part of it may be suspended.

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

16 (g) (1) In this subsection, "drug kingpin" means a person who occupies a
17 position of an organizer, supervisor, financier, or manager as a coconspirator in a
18 conspiracy to manufacture, distribute, dispense, bring into, or transport in the State
19 controlled dangerous substances.

20 (2) A drug kingpin who conspires to manufacture, distribute, dispense,
21 bring into, or transport in the State controlled dangerous substances in one or more of
22 the amounts described under subsection (f) of this section is guilty of a felony and on
23 conviction is subject to:

24 (i) Imprisonment for not less than 20 nor more than 40 years
25 without the possibility of parole, and it is mandatory on the court to impose no less
26 than 20 years' imprisonment, no part of which may be suspended; and

27 (ii) A fine of not more than \$1,000,000.

28 (3) The provisions of § 641 of this article are not applicable to a
29 conviction under this subsection.

30 (4) Notwithstanding any other provision of this subheading, a conviction
31 under this subsection does not merge with the conviction for any offense which is the
32 object of the conspiracy.

33 (5) Nothing contained in this subsection prohibits the court from
34 imposing an enhanced penalty under § 293 of this article. This subsection may not be
35 construed to preclude or limit any prosecution for any other criminal offense.

36 (6) It is not a defense to a prosecution under this section that the
37 controlled dangerous substance was brought into or transported in this State solely
38 for ultimate distribution or dispensing in another jurisdiction

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