
By: **Delegates Petzold, Barkley, and Heller**
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Assigned to: Judiciary

Committee Report: Favorable with amendments
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CHAPTER _____

1 AN ACT concerning

2 **Crimes - Drugs - 3, 4-Methylenedioxymethamphetamine (MDMA) -**
3 **Penalties**

4 FOR the purpose of establishing that a person who manufactures, distributes,
5 dispenses, or possesses a certain controlled dangerous substance in a certain
6 quantity is subject to certain additional penalties for certain controlled
7 dangerous substances violations; ~~adding a certain controlled dangerous~~
8 ~~substance in a certain quantity to the list of drugs and their quantities that are~~
9 ~~actionable under certain drug kingpin laws~~; and generally relating to penalties
10 for controlled dangerous substances violations.

11 BY repealing and reenacting, with amendments,
12 Article 27 - Crimes and Punishments
13 Section 286
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 2000 Supplement)

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

18 **Article 27 - Crimes and Punishments**

19 286.

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

21 (1) To manufacture, distribute, or dispense, or to possess a controlled
22 dangerous substance in sufficient quantity to reasonably indicate under all

1 circumstances an intent to manufacture, distribute, or dispense, a controlled
2 dangerous substance;

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

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

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

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

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

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

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

33 (2) Phencyclidine, 1-(1-phenylcyclohexyl) piperidine,
34 1-phenylcyclohexylamine, or 1-piperidinocyclohexanecarbonitrile, classified in
35 Schedule II, or n-ethyl-1-phenylcyclohexylamine,
36 1-(1-phenylcyclohexyl)-pyrrolidine, 1-(1-(2-thienyl)-cyclohexyl)-piperidine, ~~or~~
37 lysergic acid diethylamide, OR 750 GRAMS OR MORE OF 3,
38 4-METHYLENEDIOXYMETHAMPHETAMINE (MDMA), classified in Schedule I, is guilty
39 of a felony and is subject to imprisonment for not more than 20 years, or a fine of not
40 more than \$20,000, or both.

1 (3) Any other controlled dangerous substance classified in Schedule I, II,
2 III, IV, or V shall, upon conviction, be deemed guilty of a felony and sentenced to a
3 term of imprisonment for not more than 5 years or a fine of not more than \$15,000, or
4 both. Any person who has previously been convicted under this paragraph shall be
5 sentenced to imprisonment for not less than 2 years. The prison sentence of a person
6 sentenced under this paragraph as a repeat offender may not be suspended to less
7 than 2 years, and the person may be paroled during that period only in accordance
8 with § 4-305 of the Correctional Services Article.

9 (c) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
10 of this section, or of conspiracy to violate subsection (b)(1) or (b)(2) of this section shall
11 be sentenced to imprisonment for not less than 10 years and subject to a fine not
12 exceeding \$100,000 if the person previously has been convicted:

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

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

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

19 (2) The prison sentence of a person sentenced under subsection (b)(1) or
20 subsection (b)(2) of this section, or of conspiracy to violate subsection (b)(1) or
21 subsection (b)(2) of this section or any combination of these offenses, as a second
22 offender may not be suspended to less than 10 years, and the person may be paroled
23 during that period only in accordance with § 4-305 of the Correctional Services
24 Article.

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

29 (d) (1) A person who is convicted under subsection (b)(1) or subsection (b)(2)
30 of this section or of conspiracy to violate subsection (b)(1) or subsection (b)(2) of this
31 section shall be sentenced to imprisonment for the term allowed by law, but, in any
32 event, not less than 25 years and subject to a fine not exceeding \$100,000 if the
33 person previously:

34 (i) Has served at least 1 term of confinement of at least 180 days in
35 a correctional institution as a result of a conviction of a previous violation of this
36 section or § 286A of this article; and

37 (ii) Has been convicted twice, where the convictions do not arise
38 from a single incident:

39 1. Under subsection (b)(1) or subsection (b)(2) of this section;

1 (iv) 28 grams or more of morphine or opium or any derivative, salt,
2 isomer, or salt of an isomer of morphine or opium or any mixture containing 28 grams
3 or more of morphine or opium or any derivative, salt, isomer, or salt of an isomer of
4 morphine or opium;

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

7 (vi) 16 ounces or more of phencyclidine in liquid form or 448 grams
8 or more of any mixture containing phencyclidine; ~~for~~

9 (vii) 448 grams or more of methamphetamine or any mixture
10 containing 448 grams or more of methamphetamine; ~~OR~~

11 ~~(VIII) 75 GRAMS OF 3,4 METHYLENEDIOXYMETHAMPHETAMINE~~
12 ~~(MDMA).~~

13 (2) For purposes of determining the quantity of a controlled dangerous
14 substance under paragraph (1) of this subsection, the quantity of controlled
15 dangerous substances involved in individual acts of manufacturing, distribution,
16 dispensing, or possessing with intent to distribute may be aggregated if each
17 aggregate act of manufacturing, distribution, dispensing, or possessing with the
18 intent to distribute occurred within a period of 90 days.

19 (3) (i) A person convicted of violating paragraph (1) of this subsection
20 is guilty of a felony and shall be subject to a fine not exceeding \$100,000 and shall be
21 sentenced as otherwise provided for in this section, except that it is mandatory upon
22 the court to impose no less than 5 years' imprisonment, and neither that term of
23 imprisonment nor any part of it may be suspended.

24 (ii) The person may not be eligible for parole except in accordance
25 with § 4-305 of the Correctional Services Article.

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

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

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

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

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

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

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

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2001.