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2001 Regular Session 1lr0078

By: Chairman, Judiciary Committee (Departmental - Health and Mental Hygiene)

Introduced and read first time: January 24, 2001

Assigned to: Judiciary

	A BILL ENTITLED
1	AN ACT concerning
2	Crimes - Controlled Dangerous Substances, Controlled Paraphernalia, and Drug Paraphernalia - Regulation
4 5 6 7 8 9 10 11 12 13 14 15 16 17	ounces or more of liquid containing phencyclidine is a controlled dangerous substance; providing that certain information provided to a health care practitioner is not a privileged communication; adding drug paraphernalia to the list of materials that certain persons may temporarily possess under certain circumstances; making certain technical changes; and generally relating to the regulation of controlled dangerous substances, controlled paraphernalia, and
19 20 21 22	Section 278(a) and (c), 285(d), 286(a) and (f), 287(b), and 298(b) Annotated Code of Maryland (1996 Replacement Volume and 2000 Supplement)
23	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

25 **Article 27 - Crimes and Punishments**

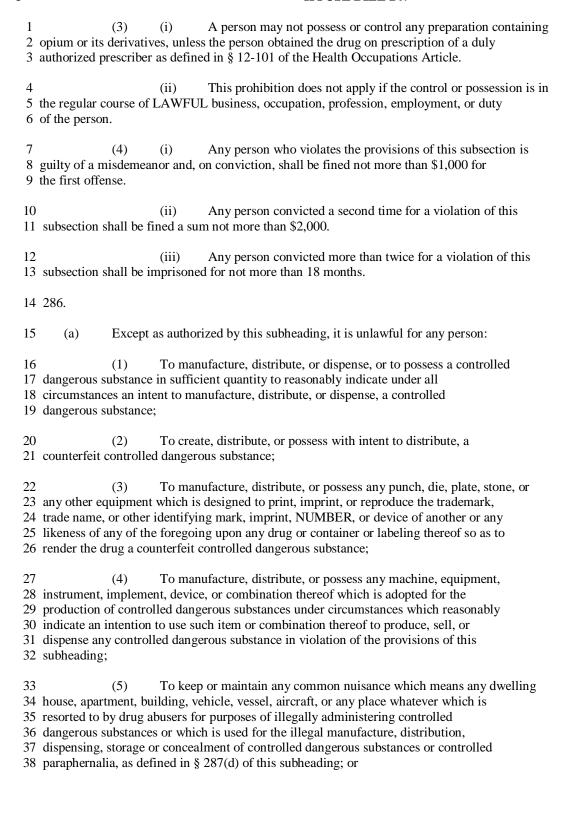
24 MARYLAND, That the Laws of Maryland read as follows:

26 278.

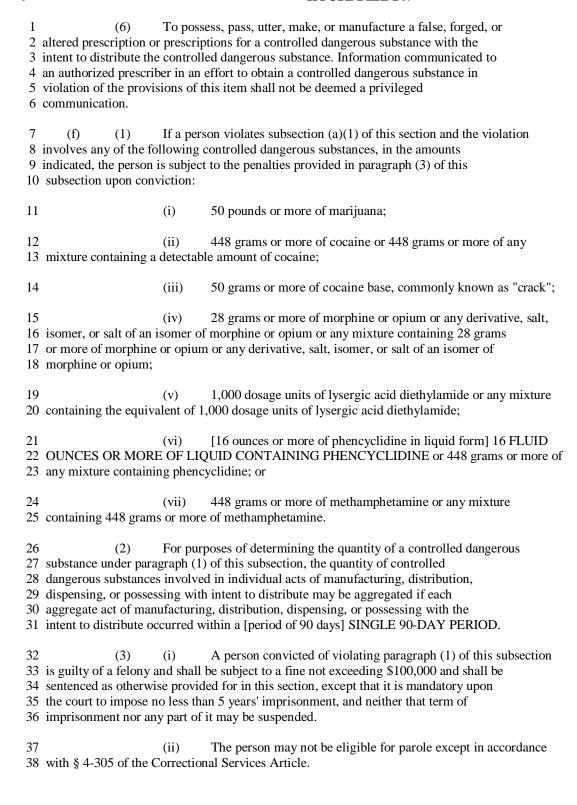
- 27 The Department shall control all substances enumerated in § 279 of this
- 28 subheading and may, by motion or on the petition of any interested party pursuant to
- 29 the procedures of the Administrative Procedure Act, and after notice and hearing, add

	1 a substance as a controlled dangerous substance. In making such a determination the 2 Department shall consider the following:			
3	(1)	Its actual or relative potential for abuse;		
4	(2)	Scientific evidence of its pharmacological effect, if known;		
5	(3)	State of current scientific knowledge regarding the substance;		
6	(4)	Its history and current pattern of abuse;		
7	(5)	The scope, duration, and significance of abuse;		
8	(6)	What, if any, risk there is to the public health;		
9	(7)	Its psychic or physiological dependence liability; and		
10 11	(8) already controlled und	Whether the substance is an immediate precursor of a substance der this subheading.		
	After considering the above factors, the Department shall make findings with respect [thereto] TO THOSE FACTORS and shall issue an order controlling the substance if it finds that the substance has a potential for abuse.			
17 18 19 20 21	Any [new] substance which is designated as controlled under federal law shall be similarly controlled under this subheading unless the Department objects to such inclusion or rescheduling. In such case the Department shall cause to be published and made public the reasons for such objection and shall afford all interested parties an opportunity to be heard. At the conclusion of such hearing, the Department shall publish and make public its decision, which shall be final. An appeal from a designation made pursuant to this section shall not stay the effect of such designation.			
23	285.			
		In this subsection, "opium" or its derivatives includes codeine and any ure, salt, derivative, mixture, or preparation of opium, natural or		
	containing opium or a	(i) A person may not sell, dispense, or give any preparation any of its derivatives, except upon a valid prescription of a duly as defined in § 12-101 of the Health Occupations Article.		
30		(ii) This prohibition does not apply to:		
31 32	medicine, dentistry, p	1. Sales made to registered practitioners of pharmacy, odiatry, or veterinary medicine; or		
		2. Sales made by any manufacturer, distributor, or licensed all or institution operating a dispensary in which a practitioner pense dangerous drugs is in charge.		

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- 1 287.
- 2 (b) To obtain or attempt to obtain a controlled dangerous substance or
- 3 controlled paraphernalia or to procure or attempt to procure the administration of
- 4 any controlled dangerous substance by (1) fraud, deceit, misrepresentation or
- 5 subterfuge, or (2) by the forgery or alteration of a prescription or a written order, or
- 6 (3) by the concealment of any material fact or by the use of false name or address, or
- 7 (4) by falsely assuming the title of or representing himself to be a manufacturer,
- 8 distributor or practitioner, or (5) by making or uttering any false or forged
- 9 prescription or written order.
- 10 Information communicated to a [physician] PRACTITIONER in an effort to
- 11 obtain controlled dangerous substances or controlled paraphernalia in violation of the
- 12 provisions of this subsection shall not be deemed a privileged communication.
- 13 298.
- 14 (b) No criminal liability shall be imposed by virtue of this subheading upon
- 15 any duly authorized officer of the United States, this State or any political subdivision
- 16 of this State, or upon any duly authorized police department civilian employee of the
- 17 United States, this State, or any political subdivision of this State, engaged in the
- 18 enforcement or prosecution of this subheading, who shall be engaged in the
- 19 enforcement of any law or municipal ordinance relating to controlled dangerous
- 20 substances. Every such public official or employee may temporarily possess controlled
- 21 dangerous substances [or], controlled paraphernalia, OR DRUG PARAPHERNALIA
- 22 incidental to the discharge of his official or employee duties.
- 23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
- 24 effect October 1, 2001.