
By: **Delegate Amedori**

Introduced and read first time: February 1, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Illegal Drugs - Heroin - Mandatory Minimum Sentence**

3 FOR the purpose of providing that the State may apply for a certain mandatory
4 minimum sentence for certain crimes involving heroin; providing that the
5 mandatory minimum sentence may not be suspended; providing that the person
6 sentenced may not be paroled during a certain period except in accordance with
7 certain provisions; and generally relating to heroin and mandatory minimum
8 sentences.

9 BY repealing and reenacting, without amendments,
10 Article 27 - Crimes and Punishments
11 Section 286(a)
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 2000 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article 27 - Crimes and Punishments
16 Section 286(b)
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 2000 Supplement)

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

21 **Article 27 - Crimes and Punishments**

22 286.

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

24 (1) To manufacture, distribute, or dispense, or to possess a controlled
25 dangerous substance in sufficient quantity to reasonably indicate under all
26 circumstances an intent to manufacture, distribute, or dispense, a controlled
27 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 (b) Any person who violates any of the provisions of subsection (a) of this
27 section with respect to:

28 (1) A substance classified in Schedules I or II which is a narcotic drug is
29 guilty of a felony and is subject to imprisonment for not more than 20 years, or a fine
30 of not more than \$25,000, or both. IN THE CASE OF A PERSON CONVICTED OF
31 DISTRIBUTING, DISPENSING, OR POSSESSING WITH INTENT TO DISTRIBUTE HEROIN,
32 THE STATE IN ITS DISCRETION MAY APPLY IN WRITING FOR A SENTENCE OF
33 IMPRISONMENT FOR 20 YEARS WITH A MANDATORY MINIMUM SENTENCE OF 5 YEARS
34 WITHOUT THE POSSIBILITY OF PAROLE. THE PRISON SENTENCE OF A PERSON
35 SENTENCED UNDER THIS ITEM MAY NOT BE SUSPENDED TO LESS THAN 5 YEARS,
36 AND THE PERSON MAY BE PAROLED DURING THAT PERIOD ONLY IN ACCORDANCE
37 WITH § 4-305 OF THE CORRECTIONAL SERVICES ARTICLE.

38 (2) Phencyclidine, 1-(1-phenylcyclohexyl) piperidine,
39 1-phenylcyclohexylamine, or 1-piperidinocyclohexanecarbonitrile, classified in
40 Schedule II, or n-ethyl-1-phenylcyclohexylamine,
41 1-(1-phenylcyclohexyl)-pyrrolidine, 1-(1-(2-thienyl)-cyclohexyl)-piperidine, or
42 lysergic acid diethylamide, classified in Schedule I, is guilty of a felony and is subject

1 to imprisonment for not more than 20 years, or a fine of not more than \$20,000, or
2 both.

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

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