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By: **Chairman, Judiciary Committee and Delegate Grosfeld**

Introduced and read first time: January 18, 2002

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Drug Paraphernalia**

3 FOR the purpose of clarifying that certain public employees and authorized providers  
4 may possess drug paraphernalia under certain limited circumstances; defining a  
5 certain term; and generally relating to drug paraphernalia.

6 BY renumbering

7 Article - Criminal Law

8 Section 5-101(o) through (dd), respectively

9 to be Section 5-101(p) through (ee), respectively

10 Annotated Code of Maryland

11 (As enacted by Chapter \_\_\_\_ (H.B.11) of the Acts of the General Assembly of

12 2002)

13 BY repealing

14 Article - Criminal Law

15 Section 5-619(a)

16 Annotated Code of Maryland

17 (As enacted by Chapter \_\_\_\_ (H.B.11) of the Acts of the General Assembly of

18 2002)

19 BY renumbering

20 Article - Criminal Law

21 Section 5-619(b) through (f), respectively

22 to be Section 5-619(a) through (e), respectively

23 Annotated Code of Maryland

24 (As enacted by Chapter \_\_\_\_ (H.B.11) of the Acts of the General Assembly of

25 2002)

26 BY adding to

27 Article - Criminal Law

28 Section 5-101(o)

1 Annotated Code of Maryland  
2 (As enacted by Chapter \_\_\_\_ (H.B.11) of the Acts of the General Assembly of  
3 2002)

4 BY repealing and reenacting, with amendments,  
5 Article - Criminal Law  
6 Section 5-619(c)(3)  
7 Annotated Code of Maryland  
8 (As enacted by Section 3 of this Act)

9 BY repealing and reenacting, with amendments,  
10 Article - Criminal Law  
11 Section 5-808 and 5-902(c) and (d)  
12 Annotated Code of Maryland  
13 (As enacted by Chapter \_\_\_\_ (H.B.11) of the Acts of the General Assembly of  
14 2002)

15 BY repealing and reenacting, without amendments,  
16 Article - Criminal Law  
17 Section 5-902(e)  
18 Annotated Code of Maryland  
19 (As enacted by Chapter \_\_\_\_ (H.B.11) of the Acts of the General Assembly of  
20 2002)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That Section(s) 5-101(o) through (dd), respectively, of Article -  
23 Criminal Law of the Annotated Code of Maryland (as enacted by Chapter \_\_\_\_  
24 (H.B.11) of the Acts of the General Assembly of 2002) be renumbered to be Section(s)  
25 5-101(p) through (ee), respectively.

26 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-619(a) of  
27 Article - Criminal Law of the Annotated Code of Maryland (as enacted by Chapter  
28 \_\_\_\_ (H.B.11) of the Acts of the General Assembly of 2002) be repealed.

29 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 5-619(b)  
30 through (f), respectively, of Article - Criminal Law of the Annotated Code of Maryland  
31 (as enacted by Chapter \_\_\_\_ (H.B.11) of the Acts of the General Assembly of 2002) be  
32 renumbered to be Section(s) 5-619(a) through (e), respectively.

33 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
34 read as follows:

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**Article - Criminal Law**

2 5-101.

3 (O) (1) "DRUG PARAPHERNALIA" MEANS EQUIPMENT, A PRODUCT, OR  
4 MATERIAL THAT IS USED, INTENDED FOR USE, OR DESIGNED FOR USE, IN:

5 (I) PLANTING, PROPAGATING, CULTIVATING, GROWING,  
6 HARVESTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING,  
7 PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING,  
8 STORING, CONTAINING, OR CONCEALING A CONTROLLED DANGEROUS SUBSTANCE  
9 IN VIOLATION OF THIS TITLE; OR

10 (II) INJECTING, INGESTING, INHALING, OR OTHERWISE  
11 INTRODUCING INTO THE HUMAN BODY A CONTROLLED DANGEROUS SUBSTANCE IN  
12 VIOLATION OF THIS TITLE.

13 (2) "DRUG PARAPHERNALIA" INCLUDES:

14 (I) A KIT USED, INTENDED FOR USE, OR DESIGNED FOR USE IN  
15 PLANTING, PROPAGATING, CULTIVATING, GROWING, OR HARVESTING ANY SPECIES  
16 OF PLANT THAT IS A CONTROLLED DANGEROUS SUBSTANCE OR FROM WHICH A  
17 CONTROLLED DANGEROUS SUBSTANCE CAN BE DERIVED;

18 (II) A KIT USED, INTENDED FOR USE, OR DESIGNED FOR USE IN  
19 MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING, PROCESSING, OR  
20 PREPARING A CONTROLLED DANGEROUS SUBSTANCE;

21 (III) AN ISOMERIZATION DEVICE USED, INTENDED FOR USE, OR  
22 DESIGNED FOR USE IN INCREASING THE POTENCY OF ANY SPECIES OF PLANT THAT  
23 IS A CONTROLLED DANGEROUS SUBSTANCE;

24 (IV) TESTING EQUIPMENT USED, INTENDED FOR USE, OR DESIGNED  
25 FOR USE IN IDENTIFYING OR IN ANALYZING THE STRENGTH, EFFECTIVENESS, OR  
26 PURITY OF A CONTROLLED DANGEROUS SUBSTANCE;

27 (V) A SCALE OR BALANCE USED, INTENDED FOR USE, OR DESIGNED  
28 FOR USE IN WEIGHING OR MEASURING A CONTROLLED DANGEROUS SUBSTANCE;

29 (VI) A DILUENT OR ADULTERANT, SUCH AS QUININE  
30 HYDROCHLORIDE, MANNITOL, MANNITE, DEXTROSE, OR LACTOSE, USED, INTENDED  
31 FOR USE, OR DESIGNED FOR USE IN CUTTING A CONTROLLED DANGEROUS  
32 SUBSTANCE;

33 (VII) A SEPARATION GIN OR SIFTER USED, INTENDED FOR USE, OR  
34 DESIGNED FOR USE IN REMOVING TWIGS AND SEEDS FROM, OR IN OTHERWISE  
35 CLEANING OR REFINING, MARIJUANA;

1 (VIII) A BLENDER, BOWL, CONTAINER, SPOON, OR MIXING DEVICE  
2 USED, INTENDED FOR USE, OR DESIGNED FOR USE IN COMPOUNDING A  
3 CONTROLLED DANGEROUS SUBSTANCE;

4 (IX) A CAPSULE, BALLOON, ENVELOPE, OR OTHER CONTAINER  
5 USED, INTENDED FOR USE, OR DESIGNED FOR USE IN PACKAGING SMALL  
6 QUANTITIES OF A CONTROLLED DANGEROUS SUBSTANCE;

7 (X) A CONTAINER OR OTHER OBJECT USED, INTENDED FOR USE, OR  
8 DESIGNED FOR USE IN STORING OR CONCEALING A CONTROLLED DANGEROUS  
9 SUBSTANCE;

10 (XI) A HYPODERMIC SYRINGE, NEEDLE, OR OTHER OBJECT USED,  
11 INTENDED FOR USE, OR DESIGNED FOR USE IN PARENTERALLY INJECTING A  
12 CONTROLLED DANGEROUS SUBSTANCE INTO THE HUMAN BODY; AND

13 (XII) AN OBJECT USED, INTENDED FOR USE, OR DESIGNED FOR USE  
14 IN INGESTING, INHALING, OR OTHERWISE INTRODUCING MARIJUANA, COCAINE,  
15 HASHISH, OR HASHISH OIL INTO THE HUMAN BODY SUCH AS:

16 1. A METAL, WOODEN, ACRYLIC, GLASS, STONE, PLASTIC, OR  
17 CERAMIC PIPE WITH OR WITHOUT SCREEN, PERMANENT SCREEN, HASHISH HEAD,  
18 OR PUNCTURED METAL BOWL;

19 2. A WATER PIPE;

20 3. A CARBURETION TUBE OR DEVICE;

21 4. A SMOKING OR CARBURETION MASK;

22 5. AN OBJECT KNOWN AS A ROACH CLIP USED TO HOLD  
23 BURNING MATERIAL, SUCH AS A MARIJUANA CIGARETTE THAT HAS BECOME TOO  
24 SMALL OR TOO SHORT TO BE HELD IN THE HAND;

25 6. A MINIATURE SPOON USED FOR COCAINE AND COCAINE  
26 VIALS;

27 7. A CHAMBER PIPE;

28 8. A CARBURETOR PIPE;

29 9. AN ELECTRIC PIPE;

30 10. AN AIR-DRIVEN PIPE;

31 11. A CHILLUM;

32 12. A BONG; AND

33 13. AN ICE PIPE OR CHILLER.

1 5-619.

2 (c) (3) A person who is convicted of violating this subsection for the first  
3 time and who previously has been convicted of violating subsection [(e)(4)] (D)(4) of  
4 this section is subject to the penalty specified under paragraph (2)(ii) of this  
5 subsection.

6 5-808.

7 (a) If the individual is engaged in the enforcement or prosecution of this title  
8 or other law relating to controlled dangerous substances, criminal liability may not be  
9 imposed under this title on:

10 (1) An authorized officer of the United States, this State, or a political  
11 subdivision of this State; or

12 (2) An authorized police department civilian employee of the United  
13 States, this State, or a political subdivision of this State.

14 (b) A public official or employee who is covered under subsection (a) of this  
15 section may temporarily possess controlled dangerous [substances or controlled]  
16 SUBSTANCES, DRUG PARAPHERNALIA, OR CONTROLLED paraphernalia incidental to  
17 the discharge of official or employee duties.

18 5-902.

19 (c) An authorized provider may not prescribe, administer, manufacture,  
20 distribute, dispense, or possess a controlled dangerous [substance or controlled]  
21 SUBSTANCE, DRUG PARAPHERNALIA, OR CONTROLLED paraphernalia except:

22 (1) In the course of regular professional duties; and

23 (2) In conformity with this title and the standards of the authorized  
24 provider's profession relating to controlled dangerous [substances or controlled]  
25 SUBSTANCES, DRUG PARAPHERNALIA, OR CONTROLLED paraphernalia.

26 (d) A controlled dangerous [substance or controlled] SUBSTANCE, DRUG  
27 PARAPHERNALIA, OR CONTROLLED paraphernalia manufactured, distributed,  
28 dispensed, possessed, prescribed, or administered in violation of subsection (c) of this  
29 section is contraband.

30 (e) (1) If the trier of fact specifically finds that a person has knowingly or  
31 intentionally violated this section, the person is guilty of a misdemeanor and on  
32 conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding  
33 \$100,000 or both.

34 (2) In all other cases, a person who violates this section is subject to a  
35 civil penalty not exceeding \$50,000.

1 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect October 1, 2002.