

HOUSE BILL 501

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2003 Regular Session
3r1864
CF 3r1515

By: **Delegates Aumann, Bates, Bohanan, Boteler, DeBoy, Frank, Hutchins,
Impallaria, Jennings, Kach, McDonough, Stocksedale, Trueschler, and
Weir**

Introduced and read first time: February 6, 2003
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Controlled Dangerous Substances - Repeat Offender Penalties**

3 FOR the purpose of altering certain requirements of certain controlled dangerous
4 substances crimes for a defendant to qualify for certain enhanced penalties;
5 expanding certain categories of crimes that defendants may be convicted of to
6 qualify as certain second, third, or fourth time controlled dangerous substances
7 offenders; repealing the allowance that a certain controlled dangerous
8 substances offender second time narcotic drug offender may participate in a
9 certain drug treatment program regardless of the length of sentence; providing
10 for the application of this Act; and generally relating to controlled dangerous
11 substances and repeat offender penalties.

12 BY repealing and reenacting, with amendments,
13 Article - Criminal Law
14 Section 5-608 and 5-609
15 Annotated Code of Maryland
16 (2002 Volume)

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

19 **Article - Criminal Law**

20 5-608.

21 (a) Except as otherwise provided in this section, a person who violates a
22 provision of §§ 5-602 through 5-606 of this subtitle with respect to a Schedule I or
23 Schedule II narcotic drug is guilty of a felony and on conviction is subject to
24 imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both.

25 (b) (1) A person who is convicted under subsection (a) of this section or of
26 conspiracy to commit a crime included in subsection (a) of this section shall be
27 sentenced to imprisonment for not less than 10 years and is subject to a fine not

1 exceeding \$100,000 if the person previously has been convicted [once] ONE OR MORE
2 TIMES:

3 (i) under subsection (a) of this section;

4 (ii) of conspiracy to commit a crime included in subsection (a) of this
5 section; [or]

6 (III) UNDER § 5-613 OR § 5-614 OF THIS SUBTITLE; OR

7 [(iii)] (IV) of a crime OR CONSPIRACY TO COMMIT A CRIME under
8 the laws of another state or the United States that would be a crime included in
9 subsection (a) of this section if committed in this State.

10 (2) The court may not suspend the mandatory minimum sentence to less
11 than 10 years.

12 (3) Except as provided in § 4-305 of the Correctional Services Article, the
13 person is not eligible for parole during the mandatory minimum sentence.

14 [(4) A person convicted under subsection (a) of this section is not
15 prohibited from participating in a drug treatment program under § 8-507 of the
16 Health - General Article because of the length of the sentence.]

17 (c) (1) A person who is convicted under subsection (a) of this section or of
18 conspiracy to commit a crime included in subsection (a) of this section shall be
19 sentenced to imprisonment for not less than 25 years and is subject to a fine not
20 exceeding \$100,000 if the person previously:

21 (i) has [served] BEEN SENTENCED TO at least one term of
22 confinement of at least 180 days [in a correctional institution], INCLUDING CREDIT
23 FOR TIME SERVED, as a result of a conviction under subsection (a) of this section or §
24 5-613 OR § 5-614 of this subtitle; and

25 (ii) has been convicted [twice] TWO OR MORE TIMES, if the
26 convictions arise from separate occasions:

27 1. under subsection (a) of this section;

28 2. of conspiracy to commit a crime included in subsection (a)
29 of this section;

30 3. UNDER § 5-613 OR § 5-614 OF THIS SUBTITLE;

31 [3.] 4. of a crime OR CONSPIRACY TO COMMIT A CRIME under
32 the laws of another state or the United States that would be a crime included in
33 subsection (a) of this section if committed in this State; or

34 [4.] 5. of any combination of these crimes.

1 (2) The court may not suspend any part of the mandatory minimum
2 sentence of 25 years.

3 (3) Except as provided in § 4-305 of the Correctional Services Article, the
4 person is not eligible for parole during the mandatory minimum sentence.

5 (4) A separate occasion is one in which the second or succeeding crime is
6 committed after there has been a charging document filed for the preceding crime.

7 (d) (1) A person who is convicted under subsection (a) of this section or of
8 conspiracy to commit a crime included in subsection (a) of this section shall be
9 sentenced to imprisonment for not less than 40 years and is subject to a fine not
10 exceeding \$100,000 if the person previously has served three or more separate terms
11 of confinement as a result of three or more separate convictions:

12 (i) under subsection (a) of this section;

13 (ii) of conspiracy to commit a crime included in subsection (a) of this
14 section;

15 (III) UNDER § 5-613 OR § 5-614 OF THIS SUBTITLE;

16 [(iii)] (IV) of a crime OR CONSPIRACY TO COMMIT A CRIME under
17 the laws of another state or the United States that would be a crime included in
18 subsection (a) of this section if committed in this State; or

19 [(iv)] (V) of any combination of these crimes.

20 (2) The court may not suspend any part of the mandatory minimum
21 sentence of 40 years.

22 (3) Except as provided in § 4-305 of the Correctional Services Article, the
23 person is not eligible for parole during the mandatory minimum sentence.

24 5-609.

25 (a) Except as otherwise provided in this section, a person who violates a
26 provision of §§ 5-602 through 5-606 of this subtitle with respect to any of the
27 following controlled dangerous substances is guilty of a felony and on conviction is
28 subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or
29 both:

30 (1) phencyclidine;

31 (2) 1-(1-phenylcyclohexyl) piperidine;

32 (3) 1-phenylcyclohexylamine;

33 (4) 1-piperidinocyclohexanecarbonitrile;

34 (5) N-ethyl-1-phenylcyclohexylamine;

- 1 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;
 2 (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
 3 (8) lysergic acid diethylamide; or
 4 (9) 750 grams or more of 3, 4-methylenedioxyamphetamine
 5 (MDMA).

6 (b) (1) A person who is convicted under subsection (a) of this section or of
 7 conspiracy to commit a crime included in subsection (a) of this section shall be
 8 sentenced to imprisonment for not less than 10 years and is subject to a fine not
 9 exceeding \$100,000 if the person previously has been convicted [once] ONE OR MORE
 10 TIMES:

- 11 (i) under subsection (a) of this section;
 12 (ii) of conspiracy to commit a crime included in subsection (a) of this
 13 section; [or]
 14 (III) UNDER § 5-613 OR § 5-614 OF THIS SUBTITLE;
 15 [(iii)] (IV) of a crime OR CONSPIRACY TO COMMIT A CRIME under
 16 the laws of another state or the United States that would be a crime included in
 17 subsection (a) of this section if committed in this State; or
 18 [(iv)] (V) of any combination of these crimes.

19 (2) The court may not suspend the mandatory minimum sentence to less
 20 than 10 years.

21 (3) Except as provided in § 4-305 of the Correctional Services Article, the
 22 person is not eligible for parole during the mandatory minimum sentence.

23 (c) (1) A person who is convicted under subsection (a) of this section or of
 24 conspiracy to commit a crime included in subsection (a) of this section shall be
 25 sentenced to imprisonment for not less than 25 years and is subject to a fine not
 26 exceeding \$100,000 if the person previously:

27 (i) has [served] BEEN SENTENCED TO at least one term of
 28 confinement of at least 180 days [in a correctional institution] as a result of a
 29 conviction under subsection (a) of this section or § 5-613 OR § 5-614 of this subtitle;
 30 and

31 (ii) if the convictions do not arise from a single incident, has been
 32 convicted [twice] TWO OR MORE TIMES:

- 33 1. under subsection (a) of this section;
 34 2. of conspiracy to commit a crime included in subsection (a)
 35 of this section;

