
By: **Delegates Marriott, Anderson, Benson, Bobo, Carter, Dumais,
Gutierrez, Holmes, Howard, Jones, Kaiser, Kirk, Lee, Montgomery,
Nathan-Pulliam, Paige, Ross, V. Turner, Vallario, and Vaughn**

Introduced and read first time: February 6, 2003

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substance Crimes - Minimum Penalties - Repeal**

3 FOR the purpose of repealing certain minimum penalties for certain repeat offenders
4 of crimes involving certain controlled dangerous substances and persons
5 convicted in connection with certain amounts of certain controlled dangerous
6 substances; providing a certain penalty for a certain crime; and generally
7 relating to penalties for controlled dangerous substance crimes.

8 BY repealing and reenacting, with amendments,
9 Article - Criminal Law
10 Section 5-607 through 5-609 and 5-612
11 Annotated Code of Maryland
12 (2002 Volume)

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

15 **Article - Criminal Law**

16 5-607.

17 [(a)] Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who
18 violates a provision of §§ 5-602 through 5-606 of this subtitle is guilty of a felony and
19 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
20 \$15,000 or both.

21 [(b) (1)] A person who has been convicted previously under subsection (a) of
22 this section shall be sentenced to imprisonment for not less than 2 years.

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

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

1 5-608.

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

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:

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

11 (ii) of conspiracy to commit a crime included in subsection (a) of this
12 section; or

13 (iii) of a crime under the laws of another state or the United States
14 that would be a crime included in subsection (a) of this section if committed in this
15 State.

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

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

20 (4)] A person convicted under subsection (a) of this section is not
21 prohibited from participating in a drug treatment program under § 8-507 of the
22 Health - General Article because of the length of the 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 at least one term of confinement of at least 180 days
28 in a correctional institution as a result of a conviction under subsection (a) of this
29 section or § 5-614 of this subtitle; and

30 (ii) has been convicted twice, if the convictions arise from separate
31 occasions:

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

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

1 3. of a crime under the laws of another state or the United
 2 States that would be a crime included in subsection (a) of this section if committed in
 3 this State; or

4 4. of any combination of these crimes.

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

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

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

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

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

17 (ii) of conspiracy to commit a crime included in subsection (a) of this
 18 section;

19 (iii) of a crime under the laws of another state or the United States
 20 that would be a crime included in subsection (a) of this section if committed in this
 21 State; or

22 (iv) of any combination of these crimes.

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

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

27 5-609.

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

33 (1) phencyclidine;

34 (2) 1-(1-phenylcyclohexyl) piperidine;

35 (3) 1-phenylcyclohexylamine;

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

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

- 12 (i) under subsection (a) of this section;
- 13 (ii) of conspiracy to commit a crime included in subsection (a) of this
14 section; or
- 15 (iii) of a crime under the laws of another state or the United States
16 that would be a crime included in subsection (a) of this section if committed in this
17 State; or
- 18 (iv) 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 at least one term of confinement of at least 180 days
28 in a correctional institution as a result of a conviction under subsection (a) of this
29 section or § 5-614 of this subtitle; and
- 30 (ii) if the convictions do not arise from a single incident, has been
31 convicted twice:

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

1 3. of a crime under the laws of another state or the United
2 States that would be a crime included in subsection (a) of this section if committed in
3 this State; or

4 4. of any combination of these crimes.

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

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

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

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

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

17 (ii) of conspiracy to commit a crime included in subsection (a) of this
18 section;

19 (iii) of a crime under the laws of another state or the United States
20 that would be a crime included in subsection (a) of this section if committed in this
21 State; or

22 (iv) of any combination of these crimes.

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

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

27 5-612.

28 (a) A person who violates § 5-602 of this subtitle with respect to any of the
29 following controlled dangerous substances in the amounts indicated is subject on
30 conviction to IMPRISONMENT NOT EXCEEDING 5 YEARS OR a fine not exceeding
31 \$100,000 [and the enhanced penalty provided in subsection (c) of this section] OR
32 BOTH:

33 (1) 50 pounds or more of marijuana;

34 (2) 448 grams or more of cocaine;

- 1 (3) 448 grams or more of any mixture containing a detectable amount of
2 cocaine;
- 3 (4) 50 grams or more of cocaine base, commonly known as "crack";
- 4 (5) 28 grams or more of morphine or opium or any derivative, salt,
5 isomer, or salt of an isomer of morphine or opium;
- 6 (6) any mixture containing 28 grams or more of morphine or opium or
7 any derivative, salt, isomer, or salt of an isomer of morphine or opium;
- 8 (7) 1,000 dosage units or more of lysergic acid diethylamide;
- 9 (8) any mixture containing the equivalent of 1,000 dosage units of
10 lysergic acid diethylamide;
- 11 (9) 16 ounces or more of phencyclidine in liquid form;
- 12 (10) 448 grams or more of any mixture containing phencyclidine;
- 13 (11) 448 grams or more of methamphetamine; or
- 14 (12) any mixture containing 448 grams or more of methamphetamine.

15 (b) For the purpose of determining the quantity of a controlled dangerous
16 substance involved in individual acts of manufacturing, distributing, dispensing, or
17 possessing with intent to manufacture, distribute, or dispense under subsection (a) of
18 this section, the acts may be aggregated if each of the acts occurred within a 90-day
19 period.

20 [(c) (1) A person who is convicted under § 5-602 of this subtitle with respect
21 to a controlled dangerous substance in an amount indicated in subsection (a) of this
22 section shall be sentenced to imprisonment for not less than 5 years.

23 (2) The court may not suspend any part of the mandatory minimum
24 sentence of 5 years.

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2003.