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By: **Senator Klausmeier**  
Introduced and read first time: January 31, 2003  
Assigned to: Judicial Proceedings

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

1 (i) under subsection (a) of this section;  
2 (ii) of conspiracy to commit a crime included in subsection (a) of this  
3 section; [or]  
4 (III) UNDER § 5-613 OR § 5-614 OF THIS SUBTITLE; OR  
5 [(iii)] (IV) of a crime OR CONSPIRACY TO COMMIT A CRIME under  
6 the laws of another state or the United States that would be a crime included in  
7 subsection (a) of this section if committed in this State.

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

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

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

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

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

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

- 25 1. under subsection (a) of this section;  
26 2. of conspiracy to commit a crime included in subsection (a)  
27 of this section;  
28 3. UNDER § 5-613 OR § 5-614 OF THIS SUBTITLE;  
29 [3.] 4. of a crime OR CONSPIRACY TO COMMIT A CRIME under  
30 the laws of another state or the United States that would be a crime included in  
31 subsection (a) of this section if committed in this State; or  
32 [4.] 5. of any combination of these crimes.

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

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

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

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

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

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

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

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

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

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

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

22 5-609.

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

28 (1) phencyclidine;

29 (2) 1-(1-phenylcyclohexyl) piperidine;

30 (3) 1-phenylcyclohexylamine;

31 (4) 1-piperidinocyclohexanecarbonitrile;

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

33 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;

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

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

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

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

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

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

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

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

- 32 1. under subsection (a) of this section;  
 33 2. of conspiracy to commit a crime included in subsection (a)  
 34 of this section;  
 35 3. UNDER § 5-613 OR § 5-614 OF THIS SUBTITLE;

1 [3.] 4. of a crime under the laws of another state or the  
2 United States that would be a crime included in subsection (a) of this section if  
3 committed in this State; or

4 [4.] 5. 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) UNDER § 5-613 OR § 5-614 OF THIS SUBTITLE;

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

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

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
29 construed to apply only prospectively and may not be applied or interpreted to have  
30 any effect on or application to any crime committed before the effective date of this  
31 Act.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
33 effect October 1, 2003.