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By: Delegates Kelley, Patterson, Anderson, Carter, C. Davis, Haynes, Howard, Jones, Kirk, Lee, Marriott, Menes, Nathan-Pulliam, Paige, Parker, Petzold, Proctor, Ramirez, Taylor, V. Turner, Vallario, and Vaughn

Introduced and read first time: February 2, 2004

Assigned to: Judiciary

### A BILL ENTITLED

1 AN ACT concernii	ıσ
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## 2 Criminal Law - Drug Crimes - Second Offenders - Eligibility for Parole

- 3 FOR the purpose of repealing certain provisions making certain persons who have
- 4 been convicted of certain drug crimes ineligible for parole under certain
- 5 circumstances; providing for the application of this Act; and generally relating to
- 6 the eligibility for parole of persons convicted of drug crimes.
- 7 BY repealing and reenacting, with amendments,
- 8 Article Criminal Law
- 9 Section 5-607 through 5-609, 5-612, 5-613, and 5-627
- 10 Annotated Code of Maryland
- 11 (2002 Volume and 2003 Supplement)

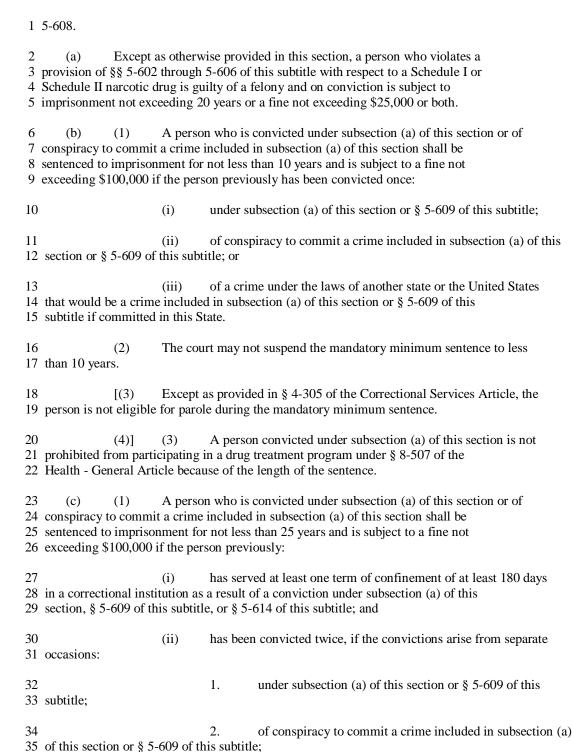
## 12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

13 MARYLAND, That the Laws of Maryland read as follows:

### 14 Article - Criminal Law

15 5-607.

- 16 (a) Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who
- 17 violates a provision of §§ 5-602 through 5-606 of this subtitle is guilty of a felony and
- 18 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
- 19 \$15,000 or both.
- 20 (b) (1) A person who has been convicted previously under subsection (a) of
- 21 this section shall be sentenced to imprisonment for not less than 2 years.
- 22 (2) The court may not suspend the mandatory minimum sentence to less
- 23 than 2 years.
- 24 [(3) Except as provided in § 4-305 of the Correctional Services Article, the
- 25 person is not eligible for parole during the mandatory minimum sentence.]



	1 3. of a crime under the laws of another s 2 States that would be a crime included in subsection (a) of this section or § 5-60 3 this subtitle if committed in this State; or	
4	4 4. of any combination of these crimes.	
5 6	5 (2) The court may not suspend any part of the mandatory m 6 sentence of 25 years.	inimum
7 8	7 (3) Except as provided in § 4-305 of the Correctional Service 8 person is not eligible for parole during the mandatory minimum sentence.	ces Article, the
9 10	9 (4) A separate occasion is one in which the second or succe 10 committed after there has been a charging document filed for the preceding cr	
13 14	11 (d) (1) A person who is convicted under subsection (a) of this section (b) of this section (c) of this section shall be sentenced to imprisonment for not less than 40 years and is subject to a fine not exceeding \$100,000 if the person previously has served three or more separate of confinement as a result of three or more separate convictions:	e ot
16	16 (i) under subsection (a) of this section or § 5-609	of this subtitle;
17 18	17 (ii) of conspiracy to commit a crime included in su 18 section or § 5-609 of this subtitle;	bsection (a) of this
	19 (iii) of a crime under the laws of another state or th 20 that would be a crime included in subsection (a) of this section or § 5-609 of t 21 subtitle if committed in this State; or	
22	22 (iv) of any combination of these crimes.	
23 24	23 (2) The court may not suspend any part of the mandatory m 24 sentence of 40 years.	inimum
25 26	25 (3) Except as provided in § 4-305 of the Correctional Service 26 person is not eligible for parole during the mandatory minimum sentence.	ces Article, the
27	27 5-609.	
30 31	28 (a) Except as otherwise provided in this section, a person who violat 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 convict 31 subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,00 both:	tion is
33	33 (1) phencyclidine;	
34	34 (2) 1-(1-phenylcyclohexyl) piperidine;	
35	35 (3) 1-phenylcyclohexylamine;	

28 in a correctional institution as a result of a conviction under subsection (a) of this

29 section, § 5-608 of this subtitle, or § 5-614 of this subtitle; and

1.

(ii)

has served at least one term of confinement of at least 180 days

if the convictions do not arise from a single incident, has been

under subsection (a) of this section or § 5-608 of this

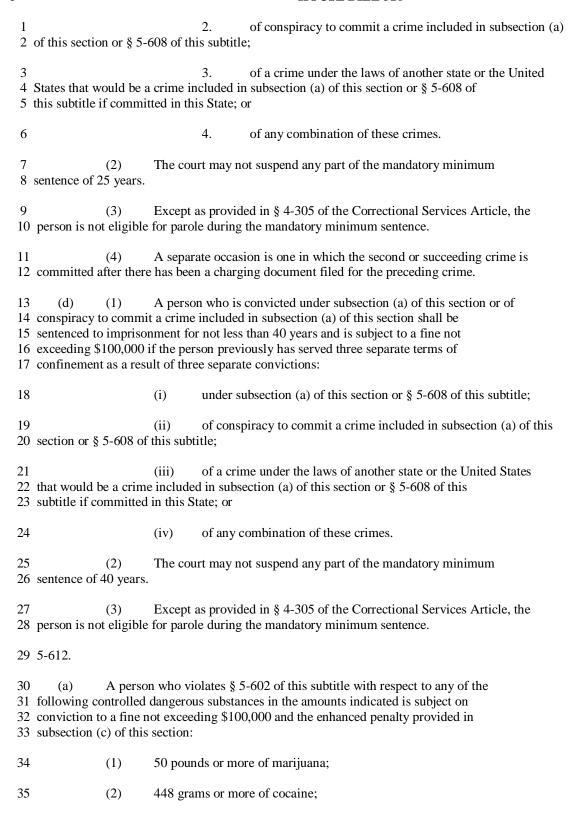
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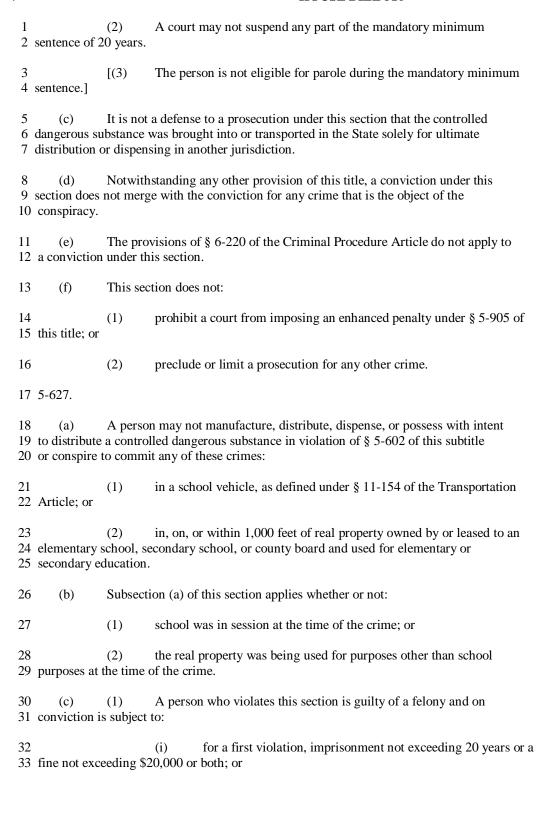
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33 subtitle;

31 convicted twice:



1 2	cocaine;	(3)	448 grams or more of any mixture containing a detectable amount of
3		(4)	50 grams or more of cocaine base, commonly known as "crack";
4 5	isomer, or sa	(5) lt of an is	28 grams or more of morphine or opium or any derivative, salt, somer of morphine or opium;
6 7	any derivativ	(6) e, salt, is	any mixture containing 28 grams or more of morphine or opium or omer, or salt of an isomer of morphine or opium;
8		(7)	1,000 dosage units or more of lysergic acid diethylamide;
9 10	lysergic acid	(8) l diethyla	any mixture containing the equivalent of 1,000 dosage units of mide;
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.
17 18	possessing v	volved in vith inten	purpose of determining the quantity of a controlled dangerous a individual acts of manufacturing, distributing, dispensing, or to manufacture, distribute, or dispense under subsection (a) of may be aggregated if each of the acts occurred within a 90-day
	to a controll		A person who is convicted under § 5-602 of this subtitle with respect rous substance in an amount indicated in subsection (a) of this need to imprisonment for not less than 5 years.
23 24	sentence of S	(2) 5 years.	The court may not suspend any part of the mandatory minimum
25 26	person is not	[(3) t eligible	Except as provided in § 4-305 of the Correctional Services Article, the for parole during the mandatory minimum sentence.]
27	5-613.		
		o acts as	ection, "drug kingpin" means an organizer, supervisor, financier, or a coconspirator in a conspiracy to manufacture, distribute, , or bring into the State a controlled dangerous substance.
33 34	listed in § 5- imprisonmen	-612 of th nt for not	A drug kingpin who conspires to manufacture, distribute, dispense, into the State a controlled dangerous substance in an amount his subtitle is guilty of a felony and on conviction is subject to less than 20 years and not exceeding 40 years without the or a fine not exceeding \$1,000,000 or both.



- 1 for each subsequent violation, imprisonment not less than 5 (ii) 2 years and not exceeding 40 years or a fine not exceeding \$40,000 or both. The court may not suspend the 5-year minimum sentence 4 required by paragraph (1)(ii) of this subsection. Except as otherwise provided in § 4-305 of the Correctional [(ii)]6 Services Article, a person sentenced under paragraph (1) (ii) of this subsection is not 7 eligible for parole during this period of the 5-year minimum sentence.] 8 A sentence imposed under paragraph (1) of this subsection shall be 9 consecutive to any other sentence imposed. 10 (d) Notwithstanding any other law, a conviction under this section may not 11 merge with a conviction under § 5-602, § 5-603, § 5-604, § 5-605, § 5-606, § 5-607, 12 § 5-608, § 5-609, § 5-612, § 5-613, or § 5-628 of this subtitle. 13 In a prosecution under this section, a map or certified copy of a map 14 made by a county or municipal unit to depict the location and boundaries of the area 15 within 1,000 feet of real property owned by or leased to an elementary school, 16 secondary school, or county board and used for school purposes is admissible as prima 17 facie evidence of the location and boundaries of the depicted area, if the governing 18 body of the county or municipal corporation approves the map or certified copy of the 19 map as an official record of the location and boundaries of the depicted area. 20 The map or a certified copy of the map shall be filed with the county 21 or municipal corporation, which shall maintain the map or the certified copy of the 22 map as an official record. 23 (3)The governing body of the county or municipal corporation may 24 revise periodically the map or certified copy of the map. 25 This subsection does not preclude the prosecution from introducing 26 other evidence to establish an element of a crime under this section.
- 27 (5) This subsection does not preclude the use or admissibility of maps or 28 diagrams other than those approved by the county or municipal corporation.
- 29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be 30 construed to apply retroactively and shall be applied to and interpreted to affect any
- 31 person convicted before, on, or after the effective date of this Act.
- 32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 33 October 1, 2004.