
By: **Delegates Kelley, Vallario, Haynes, Marriott, Patterson, Ramirez, Simmons, V. Turner, Vaughn, Anderson, Barve, Benson, Branch, Carter, V. Clagett, C. Davis, D. Davis, Feldman, Franchot, Fulton, Gaines, Gutierrez, Heller, Holmes, Howard, Hurson, Jones, King, Kirk, Lee, Mandel, McIntosh, Menes, Murray, Nathan-Pulliam, Niemann, Oaks, Paige, Parker, Proctor, Smigiel, Stern, and Taylor**

Introduced and read first time: January 26, 2005

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; increasing certain
5 maximum penalties for certain repeat offenders of crimes involving certain
6 controlled dangerous substances; and generally relating to penalties for
7 controlled dangerous substance crimes.

8 BY repealing and reenacting, with amendments,
9 Article - Criminal Law
10 Section 5-607 through 5-609
11 Annotated Code of Maryland
12 (2002 Volume and 2004 Supplement)

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.

1 (2) The court may not suspend the mandatory minimum sentence to less
2 than 2 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] IS
5 SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING
6 \$25,000 OR BOTH.

7 5-608.

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

12 (b) (1) A person who is convicted under subsection (a) of this section or of
13 conspiracy to commit a crime included in subsection (a) of this section [shall be
14 sentenced to imprisonment for not less than 10 years and is subject to a fine not
15 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A
16 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has been convicted
17 once:

18 (i) under subsection (a) of this section or § 5-609 of this subtitle;

19 (ii) of conspiracy to commit a crime included in subsection (a) of this
20 section or § 5-609 of this subtitle; or

21 (iii) of a crime under the laws of another state or the United States
22 that would be a crime included in subsection (a) of this section or § 5-609 of this
23 subtitle if committed in this State.

24 (2) [The court may not suspend the mandatory minimum sentence to
25 less than 10 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 (4)] A person convicted under subsection (a) of this section is not
29 prohibited from participating in a drug treatment program under § 8-507 of the
30 Health - General Article because of the length of the sentence.

31 (c) (1) A person who is convicted under subsection (a) of this section or of
32 conspiracy to commit a crime included in subsection (a) of this section [shall be
33 sentenced to imprisonment for not less than 25 years and is subject to a fine not
34 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 35 YEARS OR A
35 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously:

36 (i) has served at least one term of confinement of at least 180 days
37 in a correctional institution as a result of a conviction under subsection (a) of this
38 section, § 5-609 of this subtitle, or § 5-614 of this subtitle; and

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

3 1. under subsection (a) of this section or § 5-609 of this
4 subtitle;

5 2. of conspiracy to commit a crime included in subsection (a)
6 of this section or § 5-609 of this subtitle;

7 3. of a crime under the laws of another state or the United
8 States that would be a crime included in subsection (a) of this section or § 5-609 of
9 this subtitle if committed in this State; or

10 4. of any combination of these crimes.

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

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

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

17 (d) [(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 40 years and is subject to a fine not
20 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 40 YEARS OR A
21 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has served three or
22 more separate terms of confinement as a result of three or more separate convictions:

23 [(i)] (1) under subsection (a) of this section or § 5-609 of this
24 subtitle;

25 [(ii)] (2) of conspiracy to commit a crime included in subsection (a)
26 of this section or § 5-609 of this subtitle;

27 [(iii)] (3) of a crime under the laws of another state or the United
28 States that would be a crime included in subsection (a) of this section or § 5-609 of
29 this subtitle if committed in this State; or

30 [(iv)] (4) of any combination of these crimes.

31 [(2)] The court may not suspend any part of the mandatory minimum
32 sentence of 40 years.

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

1 5-609.

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 any of the
4 following controlled dangerous substances is guilty of a felony and on conviction is
5 subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or
6 both:

- 7 (1) phencyclidine;
- 8 (2) 1-(1-phenylcyclohexyl) piperidine;
- 9 (3) 1-phenylcyclohexylamine;
- 10 (4) 1-piperidinocyclohexanecarbonitrile;
- 11 (5) N-ethyl-1-phenylcyclohexylamine;
- 12 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;
- 13 (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- 14 (8) lysergic acid diethylamide; or
- 15 (9) 750 grams or more of 3, 4-methylenedioxymethamphetamine
16 (MDMA).

17 (b) (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 10 years and is subject to a fine not
20 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS OR A
21 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has been convicted
22 once:

- 23 (i) under subsection (a) of this section or § 5-608 of this subtitle;
- 24 (ii) of conspiracy to commit a crime included in subsection (a) of this
25 section or § 5-608 of this subtitle;
- 26 (iii) of a crime under the laws of another state or the United States
27 that would be a crime included in subsection (a) of this section or § 5-608 of this
28 subtitle if committed in this State; or
- 29 (iv) of any combination of these crimes.

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

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

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

4 (c) (1) A person who is convicted under subsection (a) of this section or of
5 conspiracy to commit a crime included in subsection (a) of this section [shall be
6 sentenced to imprisonment for not less than 25 years and is subject to a fine not
7 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 35 YEARS OR A
8 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously:

(i) has served at least one term of confinement of at least 180 days in a correctional institution as a result of a conviction under subsection (a) of this section, § 5-608 of this subtitle, or § 5-614 of this subtitle; and

12 (ii) if the convictions do not arise from a single incident, has been
13 convicted twice:

21 4. of any combination of these crimes.

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

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

28 (d) [1] A person who is convicted under subsection (a) of this section or of
29 conspiracy to commit a crime included in subsection (a) of this section [shall be
30 sentenced to imprisonment for not less than 40 years and is subject to a fine not
31 exceeding \$100,000] IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 40 YEARS OR A
32 FINE NOT EXCEEDING \$100,000 OR BOTH if the person previously has served three
33 separate terms of confinement as a result of three separate convictions;

34 [(i)] (1) under subsection (a) of this section or § 5-608 of this
35 subtitle.

[ii] (2) of conspiracy to commit a crime included in subsection (a) of this section or § 5-608 of this subtitle;

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1 [(iii)] (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 or § 5-608 of
3 this subtitle if committed in this State; or

4 [(iv)] (4) of any combination of these crimes.

5 [(2) (3) The court may not suspend any part of the mandatory minimum
6 sentence of 40 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2005.