
By: **Delegate Simmons**
Introduced and read first time: January 27, 2006
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substance Offenses - Subsequent Offender Penalties**
3 **- Incarceration in Another Jurisdiction**

4 FOR the purpose of providing that the enhanced penalties for a third time offender
5 who has committed certain controlled dangerous substance offenses apply if the
6 person serves a term of confinement of a certain number of days in a
7 correctional institution as a result of a conviction of a crime under the laws of
8 another state or the United States that would be a crime under certain
9 provisions if committed in this State; and generally relating to subsequent
10 offender penalties.

11 BY repealing and reenacting, with amendments,
12 Article - Criminal Law
13 Section 5-608 and 5-609
14 Annotated Code of Maryland
15 (2002 Volume and 2005 Supplement)

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

18 **Article - Criminal Law**

19 5-608.

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

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

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

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

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

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

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

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

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

17 (i) has served at least one term of confinement of at least 180 days
18 in a correctional institution as a result of:

19 1. a conviction under subsection (a) of this section, § 5-609 of
20 this subtitle, or § 5-614 of this subtitle; OR

21 2. A CONVICTION OF A CRIME UNDER THE LAWS OF
22 ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME INCLUDED IN
23 SUBSECTION (A) OF THIS SECTION, § 5-609 OF THIS SUBTITLE, OR § 5-614 OF THIS
24 SUBTITLE IF COMMITTED IN THIS STATE; and

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

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

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

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

34 4. of any combination of these crimes.

35 (2) The court may not suspend any part of the mandatory minimum
36 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 or § 5-609 of this subtitle;

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

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 or § 5-609 of this
15 subtitle if committed in this State; or

16 (iv) of any combination of these crimes.

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

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

21 5-609.

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

27 (1) phencyclidine;

28 (2) 1-(1-phenylcyclohexyl) piperidine;

29 (3) 1-phenylcyclohexylamine;

30 (4) 1-piperidinocyclohexanecarbonitrile;

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

32 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;

33 (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;

1 (8) lysergic acid diethylamide; or

2 (9) 750 grams or more of 3, 4-methylenedioxymethamphetamine
3 (MDMA).

4 (b) (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 10 years and is subject to a fine not
7 exceeding \$100,000 if the person previously has been convicted once:

8 (i) under subsection (a) of this section or § 5-608 of this subtitle;

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

11 (iii) of a crime under the laws of another state or the United States
12 that would be a crime included in subsection (a) of this section or § 5-608 of this
13 subtitle if committed in this State; or

14 (iv) of any combination of these crimes.

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

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

19 (4) A person convicted under subsection (a) of this section is not
20 prohibited from participating in a drug treatment program under § 8-507 of the
21 Health - General Article because of the length of the 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 at least one term of confinement of at least 180 days
27 in a correctional institution as a result of:

28 1. a conviction under subsection (a) of this section, § 5-608 of
29 this subtitle, or § 5-614 of this subtitle; OR

30 2. A CONVICTION OF A CRIME UNDER THE LAWS OF
31 ANOTHER STATE OR THE UNITED STATES THAT WOULD BE A CRIME INCLUDED IN
32 SUBSECTION (A) OF THIS SECTION, § 5-608 OF THIS SUBTITLE, OR § 5-614 OF THIS
33 SUBTITLE IF COMMITTED IN THIS STATE; and

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

- 1 1. under subsection (a) of this section or § 5-608 of this
2 subtitle;
- 3 2. of conspiracy to commit a crime included in subsection (a)
4 of this section or § 5-608 of this subtitle;
- 5 3. of a crime under the laws of another state or the United
6 States that would be a crime included in subsection (a) of this section or § 5-608 of
7 this subtitle if committed in this State; or
- 8 4. of any combination of these crimes.

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

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

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

15 (d) (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 40 years and is subject to a fine not
18 exceeding \$100,000 if the person previously has served three separate terms of
19 confinement as a result of three separate convictions:

20 (i) under subsection (a) of this section or § 5-608 of this subtitle;

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

23 (iii) of a crime under the laws of another state or the United States
24 that would be a crime included in subsection (a) of this section or § 5-608 of this
25 subtitle if committed in this State; or

26 (iv) of any combination of these crimes.

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

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

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2006.