

*ENROLLED BILL*  
*-- Judiciary/Judicial Proceedings --*

Introduced by **Delegate Menes (Chairman, Special Committee on Drug and Alcohol Abuse) and Delegates Barkley, Boschert, and Burns**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes - ~~Methamphetamine Laboratories - Criminal Penalties~~ Controlled**  
3 **Dangerous Substances - Restitution for Cleanup Costs**

4 FOR the purpose of establishing that a person who ~~manufactures, distributes,~~  
5 ~~dispenses, or possesses methamphetamine~~ is subject to certain additional  
6 ~~penalties and liability~~ is convicted or found to have committed a juvenile act  
7 under certain provisions of law relating to the manufacture, distribution,  
8 dispensation, or possession of a controlled dangerous substance may be ordered  
9 to pay restitution for certain costs; providing that if a certain person is a minor,  
10 the court may order certain persons to pay certain restitution; and generally  
11 relating to ~~penalties for methamphetamine~~ restitution for controlled dangerous  
12 substance violations.

13 BY repealing and reenacting, without amendments,  
14 Article - Criminal Law  
15 Section 5-602 through 5-608

1 Annotated Code of Maryland  
2 (2002 Volume and 2005 Supplement)

3 ~~BY repealing and reenacting, with amendments,~~  
4 ~~Article - Criminal Law~~  
5 ~~Section 5-609~~  
6 ~~Annotated Code of Maryland~~  
7 ~~(2002 Volume and 2005 Supplement)~~

8 BY adding to  
9 Article - Criminal Law  
10 Section 5-610  
11 Annotated Code of Maryland  
12 (2002 Volume and 2005 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 5-602.

17 Except as otherwise provided in this title, a person may not:

18 (1) manufacture, distribute, or dispense a controlled dangerous  
19 substance; or

20 (2) possess a controlled dangerous substance in sufficient quantity  
21 reasonably to indicate under all circumstances an intent to manufacture, distribute,  
22 or dispense a controlled dangerous substance.

23 5-603.

24 Except as otherwise provided in this title, a person may not manufacture,  
25 distribute, or possess a machine, equipment, instrument, implement, device, or a  
26 combination of them that is adapted to produce a controlled dangerous substance  
27 under circumstances that reasonably indicate an intent to use it to produce, sell, or  
28 dispense a controlled dangerous substance in violation of this title.

29 5-604.

30 (a) In this section, "counterfeit substance" means a controlled dangerous  
31 substance, or its container or labeling, that:

32 (1) without authorization, bears a likeness of the trademark, trade  
33 name, or other identifying mark, imprint, number, or device of a manufacturer,  
34 distributor, or dispenser other than the actual manufacturer, distributor, or  
35 dispenser; and

1 (2) thereby falsely purports or is represented to be the product of, or to  
2 have been distributed by, the other manufacturer, distributor, or dispenser.

3 (b) Except as otherwise provided in this title, a person may not:

4 (1) create or distribute a counterfeit substance; or

5 (2) possess a counterfeit substance with intent to distribute it.

6 (c) Except as otherwise provided in this title, a person may not manufacture,  
7 distribute, or possess equipment that is designed to print, imprint, or reproduce an  
8 authentic or imitation trademark, trade name, other identifying mark, imprint,  
9 number, or device of another onto a drug or the container or label of a drug, rendering  
10 the drug a counterfeit substance.

11 5-605.

12 (a) "Common nuisance" means a dwelling, building, vehicle, vessel, aircraft, or  
13 other place:

14 (1) resorted to by individuals for the purpose of administering illegally  
15 controlled dangerous substances; or

16 (2) where controlled dangerous substances or controlled paraphernalia  
17 are manufactured, distributed, dispensed, stored, or concealed illegally.

18 (b) A person may not keep a common nuisance.

19 5-606.

20 (a) Except as otherwise provided in this title, a person may not pass, issue,  
21 make, or possess a false, counterfeit, or altered prescription for a controlled  
22 dangerous substance with intent to distribute the controlled dangerous substance.

23 (b) Information that is communicated to an authorized prescriber in an effort  
24 to obtain a controlled dangerous substance in violation of subsection (a) of this section  
25 is not a privileged communication.

26 5-607.

27 (a) Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who  
28 violates a provision of §§ 5-602 through 5-606 of this subtitle is guilty of a felony and  
29 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding  
30 \$15,000 or both.

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

33 (2) The court may not suspend the mandatory minimum sentence to less  
34 than 2 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 5-608.

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

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 or § 5-609 of this subtitle;

13 (ii) of conspiracy to commit a crime included in subsection (a) of this  
14 section or § 5-609 of this subtitle; 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 or § 5-609 of this  
17 subtitle if committed in this State.

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

25 (c) (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 25 years and is subject to a fine not  
28 exceeding \$100,000 if the person previously:

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

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

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



- 1 (2) 1-(1-phenylecyclohexyl) piperidine;
- 2 (3) 1-phenylecyclohexylamine;
- 3 (4) 1-piperidinoecyclohexanecarbonitrile;
- 4 (5) N-ethyl-1-phenylecyclohexylamine;
- 5 (6) 1-(1-phenylecyclohexyl) pyrrolidine;
- 6 (7) 1-(1-(2-thienyl) cyclohexyl) piperidine;
- 7 (8) lysergic acid diethylamide; [or]
- 8 (9) 750 grams or more of 3, 4-methylenedioxymethamphetamine
- 9 (MDMA); OR
- 10 (10) METHAMPHETAMINE.

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

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

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

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

21 (iv) of any combination of these crimes.

22 (2) The court may not suspend the mandatory minimum sentence to less  
 23 than 10 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 person convicted under subsection (a) of this section is not  
 27 prohibited from participating in a drug treatment program under § 8-507 of the  
 28 Health-General Article because of the length of the sentence.

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

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

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

6 1. under subsection (a) of this section or § 5-608 of this  
7 subtitle;

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

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

13 4. of any combination of these crimes.

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

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

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

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

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

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

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

31 (iv) of any combination of these crimes.

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

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

1 ~~(E) A PERSON WHO VIOLATES A PROVISION OF §§ 5-602 THROUGH 5-606 OF~~  
2 ~~THIS SUBTITLE WITH RESPECT TO METHAMPHETAMINE SHALL BE LIABLE FOR ALL~~  
3 ~~COSTS OF CLEANING UP OR REMEDIATING LABORATORIES OR OTHER FACILITIES~~  
4 ~~OPERATED FOR THE ILLEGAL MANUFACTURE OF METHAMPHETAMINE.~~

5 5-610.

6 (A) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, A PERSON WHO  
7 IS CONVICTED OR FOUND TO HAVE COMMITTED A DELINQUENT ACT UNDER § 5-602,  
8 § 5-603, § 5-604, § 5-605, OR § 5-606 OF THIS SUBTITLE MAY BE ORDERED BY THE  
9 COURT TO PAY RESTITUTION FOR ACTUAL COSTS REASONABLY INCURRED IN  
10 CLEANING UP OR REMEDIATING LABORATORIES OR OTHER FACILITIES OPERATED  
11 FOR THE ILLEGAL MANUFACTURE OF A CONTROLLED DANGEROUS SUBSTANCE.

12 (B) IF THE PERSON CONVICTED OR FOUND TO HAVE COMMITTED A  
13 DELINQUENT ACT IS A MINOR, THE COURT MAY ORDER THE MINOR, THE MINOR'S  
14 PARENT, OR BOTH TO PAY THE RESTITUTION DESCRIBED IN SUBSECTION (A) OF THIS  
15 SECTION.

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