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

Introduced and read first time: January 30, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Methamphetamine Laboratories - Criminal Penalties**

3 FOR the purpose of establishing that a person who manufactures, distributes,
4 dispenses, or possesses methamphetamine is subject to certain additional
5 penalties and liability for certain costs; and generally relating to penalties for
6 methamphetamine violations.

7 BY repealing and reenacting, without amendments,
8 Article - Criminal Law
9 Section 5-602 through 5-608
10 Annotated Code of Maryland
11 (2002 Volume and 2005 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Criminal Law
14 Section 5-609
15 Annotated Code of Maryland
16 (2002 Volume and 2005 Supplement)

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 5-602.

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

22 (1) manufacture, distribute, or dispense a controlled dangerous
23 substance; or

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

1 5-603.

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

7 5-604.

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

10 (1) without authorization, bears a likeness of the trademark, trade
11 name, or other identifying mark, imprint, number, or device of a manufacturer,
12 distributor, or dispenser other than the actual manufacturer, distributor, or
13 dispenser; and

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

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

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

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

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

24 5-605.

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

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

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

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

32 5-606.

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

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

4 5-607.

5 (a) Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who
6 violates a provision of §§ 5-602 through 5-606 of this subtitle is guilty of a felony and
7 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
8 \$15,000 or both.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 4. of any combination of these crimes.

18 (2) The court may not suspend any part of the mandatory minimum
19 sentence of 25 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 separate occasion is one in which the second or succeeding crime is
23 committed after there has been a charging document filed for the preceding crime.

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

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

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

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

35 (iv) of any combination of these crimes.

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

5 5-609.

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

11 (1) phencyclidine;

12 (2) 1-(1-phenylcyclohexyl) piperidine;

13 (3) 1-phenylcyclohexylamine;

14 (4) 1-piperidinocyclohexanecarbonitrile;

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

16 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;

17 (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;

18 (8) lysergic acid diethylamide; [or]

19 (9) 750 grams or more of 3, 4-methylenedioxymethamphetamine
20 (MDMA); OR

21 (10) METHAMPHETAMINE.

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

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

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

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

32 (iv) of any combination of these crimes.

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

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

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

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

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

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

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

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

24 4. of any combination of these crimes.

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

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

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

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

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

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

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 § 5-608 of this
5 subtitle if committed in this State; or

6 (iv) of any combination of these crimes.

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

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

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

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