
By: **Senator Gladden**
 Introduced and read first time: January 25, 2006
 Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
 Senate action: Adopted
 Read second time: February 28, 2006

CHAPTER _____

1 AN ACT concerning

2 **Crimes - ~~Methamphetamine Laboratories~~ Controlled Dangerous Substances**
 3 **- Criminal Penalties**

4 FOR the purpose of establishing that a person who ~~manufactures, distributes,~~
 5 ~~dispenses, or possesses methamphetamine~~ violates certain provisions of law
 6 relating to the manufacture, distribution, dispensation, or possession of a
 7 controlled dangerous substance is subject to ~~certain additional penalties and~~
 8 liability for certain costs; and generally relating to penalties for
 9 ~~methamphetamine~~ controlled dangerous substance violations.

10 BY repealing and reenacting, without amendments,
 11 Article - Criminal Law
 12 Section 5-602 through 5-608
 13 Annotated Code of Maryland
 14 (2002 Volume and 2005 Supplement)

15 ~~BY repealing and reenacting, with amendments,~~
 16 ~~Article - Criminal Law~~
 17 ~~Section 5-609~~
 18 ~~Annotated Code of Maryland~~
 19 ~~(2002 Volume and 2005 Supplement)~~

20 BY adding to
 21 Article - Criminal Law
 22 Section 5-610
 23 Annotated Code of Maryland

1 (2002 Volume and 2005 Supplement)

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

4 **Article - Criminal Law**

5 5-602.

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

7 (1) manufacture, distribute, or dispense a controlled dangerous
8 substance; or

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

12 5-603.

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

18 5-604.

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

21 (1) without authorization, bears a likeness of the trademark, trade
22 name, or other identifying mark, imprint, number, or device of a manufacturer,
23 distributor, or dispenser other than the actual manufacturer, distributor, or
24 dispenser; and

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

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

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

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

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

1 5-605.

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

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

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

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

9 5-606.

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

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

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.

23 (2) The court may not suspend the mandatory minimum sentence to less
24 than 2 years.

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

27 5-608.

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

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

- 1 (i) under subsection (a) of this section or § 5-609 of this subtitle;
- 2 (ii) of conspiracy to commit a crime included in subsection (a) of this
3 section or § 5-609 of this subtitle; or
- 4 (iii) of a crime under the laws of another state or the United States
5 that would be a crime included in subsection (a) of this section or § 5-609 of this
6 subtitle if committed in this State.

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

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

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

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

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

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

27 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 4. of any combination of these crimes.

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

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

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

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

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

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

12 (iv) of any combination of these crimes.

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

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

17 ~~5-609.~~

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

23 (1) ~~phencyclidine;~~

24 (2) ~~1-(1-phenylecyclohexyl)-piperidine;~~

25 (3) ~~1-phenylecyclohexylamine;~~

26 (4) ~~1-piperidinocyclohexanecarbonitrile;~~

27 (5) ~~N-ethyl-1-phenylecyclohexylamine;~~

28 (6) ~~1-(1-phenylecyclohexyl)-pyrrolidine;~~

29 (7) ~~1-(1-(2-thienyl)-cyclohexyl)-piperidine;~~

30 (8) ~~lysergic acid diethylamide; [or]~~

31 (9) ~~750 grams or more of 3,4-methylenedioxymethamphetamine~~
 32 ~~(MDMA); OR~~

33 (10) ~~METHAMPHETAMINE.~~

- 1 (b) (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 10 years and is subject to a fine not
4 exceeding \$100,000 if the person previously has been convicted once:
- 5 (i) under subsection (a) of this section or § 5-608 of this subtitle;
- 6 (ii) of conspiracy to commit a crime included in subsection (a) of this
7 section or § 5-608 of this subtitle;
- 8 (iii) of a crime under the laws of another state or the United States
9 that would be a crime included in subsection (a) of this section or § 5-608 of this
10 subtitle if committed in this State; or
- 11 (iv) of any combination of these crimes.
- 12 (2) The court may not suspend the mandatory minimum sentence to less
13 than 10 years.
- 14 (3) Except as provided in § 4-305 of the Correctional Services Article, the
15 person is not eligible for parole during the mandatory minimum sentence.
- 16 (4) A person convicted under subsection (a) of this section is not
17 prohibited from participating in a drug treatment program under § 8-507 of the
18 Health—General Article because of the length of the sentence.
- 19 (c) (1) A person who is convicted under subsection (a) of this section or of
20 conspiracy to commit a crime included in subsection (a) of this section shall be
21 sentenced to imprisonment for not less than 25 years and is subject to a fine not
22 exceeding \$100,000 if the person previously:
- 23 (i) has served at least one term of confinement of at least 180 days
24 in a correctional institution as a result of a conviction under subsection (a) of this
25 section, § 5-608 of this subtitle, or § 5-614 of this subtitle; and
- 26 (ii) if the convictions do not arise from a single incident, has been
27 convicted twice:
- 28 1. under subsection (a) of this section or § 5-608 of this
29 subtitle;
- 30 2. of conspiracy to commit a crime included in subsection (a)
31 of this section or § 5-608 of this subtitle;
- 32 3. of a crime under the laws of another state or the United
33 States that would be a crime included in subsection (a) of this section or § 5-608 of
34 this subtitle if committed in this State; or
- 35 4. of any combination of these crimes.

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

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

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

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

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

18 (iv) of any combination of these crimes.

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

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

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

27 5-610.

28 A PERSON WHO VIOLATES A PROVISION OF §§ 5-602 THROUGH 5-606 OF THIS
29 SUBTITLE WITH RESPECT TO A CONTROLLED DANGEROUS SUBSTANCE SHALL BE
30 LIABLE FOR ALL COSTS OF CLEANING UP OR REMEDIATING LABORATORIES OR
31 OTHER FACILITIES OPERATED FOR THE ILLEGAL MANUFACTURE OF A CONTROLLED
32 DANGEROUS SUBSTANCE.

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

