

HOUSE BILL 1054

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8lr2572

By: **Delegates George, Beidle, V. Clagett, Costa, Dwyer, Frush, King, Kipke, Love, McConkey, Pena-Melnyk, Schuh, and Sophocleus**
Introduced and read first time: February 7, 2008
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **City of Annapolis – Drug-Free Zones**

3 FOR the purpose of making it a felony to manufacture, distribute, dispense, or possess
4 with intent to distribute certain controlled dangerous substances or conspire to
5 commit these offenses within a certain distance of a certain community or
6 recreation center in the City of Annapolis; requiring a sentence imposed under
7 this Act to be consecutive to any other sentence imposed; prohibiting a
8 conviction imposed under this Act from merging with certain other convictions;
9 making certain maps admissible as prima facie evidence of the location and
10 boundaries of certain property; establishing that certain penalties apply to an
11 offense under this Act; authorizing the City of Annapolis to post signs
12 designating certain areas as drug-free zones; requiring that the signs contain
13 certain information; defining a certain term; and generally relating to drug-free
14 zones around certain community or recreation centers in the City of Annapolis.

15 BY adding to

16 Article 24 – Political Subdivisions – Miscellaneous Provisions
17 Section 22–101 to be under the new title “Title 22. Community or Recreation
18 Center Drug-Free Zones”
19 Annotated Code of Maryland
20 (2005 Replacement Volume and 2007 Supplement)

21 BY adding to

22 Article – Criminal Law
23 Section 5–606.1
24 Annotated Code of Maryland
25 (2002 Volume and 2007 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article – Criminal Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 Section 5-607, 5-608, and 5-609
2 Annotated Code of Maryland
3 (2002 Volume and 2007 Supplement)

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

6 **Article 24 - Political Subdivisions - Miscellaneous Provisions**

7 **TITLE 22. COMMUNITY OR RECREATION CENTER DRUG-FREE ZONES.**

8 **22-101.**

9 (A) **THIS SECTION APPLIES ONLY IN THE CITY OF ANNAPOLIS.**

10 (B) **THE CITY OF ANNAPOLIS MAY POST SIGNS DESIGNATING THE**
11 **AREAS WITHIN 1,000 FEET OF COMMUNITY OR RECREATION CENTERS AS**
12 **“DRUG-FREE ZONES”.**

13 (C) **THE SIGNS SHALL BE DESIGNED TO PROVIDE NOTICE OF THE**
14 **PROVISIONS OF § 5-606.1 OF THE CRIMINAL LAW ARTICLE.**

15 **Article - Criminal Law**

16 **5-606.1.**

17 (A) **THIS SECTION APPLIES ONLY IN THE CITY OF ANNAPOLIS.**

18 (B) **IN THIS SECTION, “COMMUNITY OR RECREATION CENTER” MEANS A**
19 **FACILITY THAT:**

20 (1) **PROVIDES HEALTH, SOCIAL, NUTRITIONAL, EDUCATIONAL, OR**
21 **RECREATIONAL SERVICES FOR THE GENERAL PUBLIC; AND**

22 (2) **IS OPERATED BY OR UNDER THE CONTROL OF A LOCAL**
23 **GOVERNMENTAL ENTITY, THE HOUSING AUTHORITY OF THE CITY OF**
24 **ANNAPOLIS, A NONPROFIT ORGANIZATION, OR A HOMEOWNERS ASSOCIATION.**

25 (C) **A PERSON MAY NOT MANUFACTURE, DISTRIBUTE, DISPENSE, OR**
26 **POSSESS WITH INTENT TO DISTRIBUTE A CONTROLLED DANGEROUS SUBSTANCE**
27 **IN VIOLATION OF § 5-602 OF THIS SUBTITLE OR CONSPIRE TO COMMIT ANY OF**
28 **THESE CRIMES IN, ON, OR WITHIN 1,000 FEET OF A COMMUNITY OR**
29 **RECREATION CENTER IN THE CITY OF ANNAPOLIS.**

1 (D) A SENTENCE IMPOSED FOR A VIOLATION OF THIS SECTION SHALL
2 BE CONSECUTIVE TO ANY OTHER SENTENCE IMPOSED.

3 (E) NOTWITHSTANDING ANY OTHER LAW, A CONVICTION UNDER THIS
4 SECTION MAY NOT MERGE WITH A CONVICTION UNDER § 5-602, § 5-603, §
5 5-604, § 5-605, § 5-606, § 5-612, § 5-613, OR § 5-628 OF THIS SUBTITLE.

6 (F) (1) IN A PROSECUTION UNDER THIS SECTION, A MAP OR
7 CERTIFIED COPY OF A MAP MADE BY A UNIT OF THE CITY OF ANNAPOLIS TO
8 DEPICT THE LOCATION AND BOUNDARIES OF THE AREA WITHIN 1,000 FEET OF A
9 COMMUNITY OR RECREATION CENTER IN THE CITY OF ANNAPOLIS IS
10 ADMISSIBLE AS PRIMA FACIE EVIDENCE OF THE LOCATION AND BOUNDARIES OF
11 THE DEPICTED AREA, IF THE MAYOR AND CITY COUNCIL OF ANNAPOLIS
12 APPROVE THE MAP OR CERTIFIED COPY OF THE MAP AS AN UNOFFICIAL
13 RECORD OF THE LOCATION AND BOUNDARIES OF THE DEPICTED AREA.

14 (2) THE MAP OR A CERTIFIED COPY OF THE MAP SHALL BE FILED
15 WITH THE CITY OF ANNAPOLIS, WHICH SHALL MAINTAIN THE MAP OR THE
16 CERTIFIED COPY OF THE MAP AS AN OFFICIAL RECORD.

17 (3) THE MAYOR AND CITY COUNCIL OF ANNAPOLIS MAY
18 PERIODICALLY REVISE THE MAP OR CERTIFIED COPY OF THE MAP.

19 (4) THIS SUBSECTION DOES NOT PRECLUDE THE PROSECUTION
20 FROM INTRODUCING OTHER EVIDENCE TO ESTABLISH AN ELEMENT OF A CRIME
21 UNDER THIS SECTION.

22 (5) THIS SUBSECTION DOES NOT PRECLUDE THE USE OR
23 ADMISSIBILITY OF MAPS OR DIAGRAMS OTHER THAN THOSE APPROVED BY THE
24 MAYOR AND CITY COUNCIL OF ANNAPOLIS.

25 5-607.

26 (a) Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who
27 violates a provision of §§ 5-602 through [5-606] **5-606.1** of this subtitle is guilty of a
28 felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not
29 exceeding \$15,000 or both.

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

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

1 (3) Except as provided in § 4–305 of the Correctional Services Article,
2 the 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] **5–606.1** of this subtitle with respect to a
6 Schedule I or Schedule II narcotic drug is guilty of a felony and on conviction is subject
7 to 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
13 subtitle;

14 (ii) of conspiracy to commit a crime included in subsection (a) of
15 this section or § 5–609 of this subtitle; or

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

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

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

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

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

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

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

1 1. under subsection (a) of this section or § 5–609 of this
2 subtitle;

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

5 3. of a crime under the laws of another state or the
6 United States that would be a crime included in subsection (a) of this section or §
7 5–609 of 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,
12 the 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
14 is 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 or more separate terms
19 of confinement as a result of three or more separate convictions:

20 (i) under subsection (a) of this section or § 5–609 of this
21 subtitle;

22 (ii) of conspiracy to commit a crime included in subsection (a) of
23 this section or § 5–609 of this subtitle;

24 (iii) of a crime under the laws of another state or the United
25 States that would be a crime included in subsection (a) of this section or § 5–609 of this
26 subtitle if committed in this State; or

27 (iv) of any combination of these crimes.

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

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

32 5–609.

1 (a) Except as otherwise provided in this section, a person who violates a
2 provision of §§ 5-602 through [5-606] **5-606.1** of this subtitle with respect to any of
3 the following controlled dangerous substances is guilty of a felony and on conviction is
4 subject to imprisonment not exceeding 20 years or a fine not exceeding \$20,000 or
5 both:

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

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

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

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

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

27 (iv) of any combination of these crimes.

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

30 (3) Except as provided in § 4-305 of the Correctional Services Article,
31 the 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 if the person previously:

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

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

13 1. under subsection (a) of this section or § 5–608 of this
14 subtitle;

15 2. of conspiracy to commit a crime included in subsection
16 (a) of this section or § 5–608 of this subtitle;

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

20 4. of any combination of these crimes.

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

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

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

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

32 (i) under subsection (a) of this section or § 5–608 of this
33 subtitle;

34 (ii) of conspiracy to commit a crime included in subsection (a) of
35 this section or § 5–608 of this subtitle;

1 (iii) 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 this
3 subtitle if committed in this State; or

4 (iv) of any combination of these crimes.

5 (2) 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,
8 the 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, 2008.