

HOUSE BILL 285

E1

9lr1643

By: **Delegates Waldstreicher, Anderson, Barnes, Carter, Conaway, Dumais, Rosenberg, Ross, and Schuler**

Introduced and read first time: January 29, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Controlled Dangerous Substances – Penalties**

3 FOR the purpose of altering penalties for certain drug possession offenses based on the
4 amount of drugs involved; making technical changes; and generally relating to
5 penalties for drug-related offenses.

6 BY repealing and reenacting, with amendments,
7 Article – Criminal Law
8 Section 5–601
9 Annotated Code of Maryland
10 (2002 Volume and 2008 Supplement)

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

13 **Article – Criminal Law**

14 5–601.

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

16 (1) possess or administer to another a controlled dangerous substance,
17 unless obtained directly or by prescription or order from an authorized provider acting
18 in the course of professional practice; or

19 (2) obtain or attempt to obtain a controlled dangerous substance, or
20 procure or attempt to procure the administration of a controlled dangerous substance
21 by:

22 (i) fraud, deceit, misrepresentation, or subterfuge;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (ii) the counterfeiting or alteration of a prescription or a written
2 order;
- 3 (iii) the concealment of a material fact;
- 4 (iv) the use of a false name or address;
- 5 (v) falsely assuming the title of or representing to be a
6 manufacturer, distributor, or authorized provider; or
- 7 (vi) making, issuing, or presenting a false or counterfeit
8 prescription or written order.

9 (b) Information that is communicated to a physician in an effort to obtain a
10 controlled dangerous substance in violation of this section is not a privileged
11 communication.

12 (c) (1) Except as provided in paragraphs [(2) and] **(2), (3), AND (4)** of this
13 subsection, a person who violates this section is guilty of a misdemeanor and on
14 conviction is subject to imprisonment not exceeding 4 years or a fine not exceeding
15 \$25,000 or both.

16 **(2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
17 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
18 **EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 IF THE VIOLATION**
19 **INVOLVES AN AMOUNT OF THE CONTROLLED DANGEROUS SUBSTANCE EQUAL**
20 **TO OR LESS THAN ONE-TENTH OF A GRAM.**

21 **[(2)] (3) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
22 **SUBSECTION, A person whose violation of this section involves the use or possession**
23 **of marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding**
24 **\$1,000 or both.**

25 **[(3)] (4) (i) In a prosecution for the use or possession of**
26 **marijuana, the defendant may introduce and the court shall consider as a mitigating**
27 **factor any evidence of medical necessity.**

28 (ii) Notwithstanding paragraph [(2)] **(3)** of this subsection, if
29 the court finds that the person used or possessed marijuana because of medical
30 necessity, on conviction of a violation of this section, the maximum penalty that the
31 court may impose on the person is a fine not exceeding \$100.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2009.