

HOUSE BILL 388

E1
HB 584/08 – JUD

9lr1082

By: **Delegate Simmons**

Introduced and read first time: February 2, 2009

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 23, 2009

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Narcotic Drugs – Enhanced Penalties**

3 FOR the purpose of adding conspiracy to distribute certain narcotic drugs and the
4 commission of a certain crime in another state as predicates for a certain
5 enhanced penalty for certain offenses relating to narcotic drugs; and generally
6 relating to narcotic drugs and enhanced penalties.

7 BY repealing and reenacting, with amendments,
8 Article – Criminal Law
9 Section 5–608
10 Annotated Code of Maryland
11 (2002 Volume and 2008 Supplement)

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

14 **Article – Criminal Law**

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.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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 § 5–609 of this
6 subtitle;

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

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

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

14 (3) Except as provided in § 4–305 of the Correctional Services Article,
15 the 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
24 days in a correctional institution as a result of a conviction [under subsection (a) of
25 this section, § 5–609 of this subtitle, or § 5–614 of this subtitle; and]:

26 **1. UNDER SUBSECTION (A) OF THIS SECTION OR §**
27 **5–609 OR § 5–614 OF THIS SUBTITLE;**

28 **2. OF CONSPIRACY TO COMMIT A CRIME INCLUDED**
29 **IN SUBSECTION (A) OF THIS SECTION OR § 5–609 OF THIS SUBTITLE; OR**

30 **3. OF A CRIME UNDER THE LAWS OF ANOTHER STATE**
31 **OR THE UNITED STATES THAT WOULD BE A CRIME INCLUDED IN SUBSECTION**
32 **(A) OF THIS SECTION OR § 5–609 OF THIS SUBTITLE IF COMMITTED IN THIS**
33 **STATE; AND**

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

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

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

7 3. of a crime under the laws of another state or the
8 United States that would be a crime included in subsection (a) of this section or §
9 5–609 of this subtitle if committed in this State; or

10 4. of any combination of these crimes.

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

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

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

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

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

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

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

29 (iv) of any combination of these crimes.

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.