

CHAPTER 684

(House Bill 626)

AN ACT concerning

Criminal Law – Controlled Dangerous Substance – Manufacture

FOR the purpose of removing the prohibition on the manufacture of a controlled dangerous substance from the portion of the law that prohibits distributing and dispensing a controlled dangerous substance and placing it with the portion of the law that prohibits the manufacture, distribution, or possession of certain equipment used to produce controlled dangerous substances; establishing that a violation of the prohibition against manufacturing a controlled dangerous substance or manufacturing, distributing, or possessing a machine, equipment, instrument, implement, device, or a combination of them is an “underlying crime” for purposes of defining a criminal gang; and generally relating to controlled dangerous substances.

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–602, 5–603, and 9–801
Annotated Code of Maryland
(2002 Volume and 2008 Supplement)

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

Article – Criminal Law

5–602.

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

(1) [manufacture, distribute,] **DISTRIBUTE** or dispense a controlled dangerous substance; or

(2) possess a controlled dangerous substance in sufficient quantity reasonably to indicate under all circumstances an intent to [manufacture, distribute,] **DISTRIBUTE** or dispense a controlled dangerous substance.

5–603.

Except as otherwise provided in this title, a person may not **MANUFACTURE A CONTROLLED DANGEROUS SUBSTANCE, OR** manufacture, distribute, or possess a

machine, equipment, instrument, implement, device, or a combination of them that is adapted to produce a controlled dangerous substance under circumstances that reasonably indicate an intent to use it to produce, sell, or dispense a controlled dangerous substance in violation of this title.

9-801.

(a) In this subtitle the following words have the meanings indicated.

(b) "Coerce" means to compel or attempt to compel another by threat of harm or other adverse consequences.

(c) "Criminal gang" means a group or ongoing association of three or more persons whose members:

(1) individually or collectively engage in a pattern of criminal gang activity;

(2) have as one of their primary objectives or activities the commission of one or more underlying crimes, including acts by juveniles that would be underlying crimes if committed by adults; and

(3) have in common an identifying sign, symbol, name, leader, or purpose.

(d) "Pattern of criminal gang activity" means the commission of, attempted commission of, conspiracy to commit, or solicitation of two or more underlying crimes or acts by a juvenile that would be an underlying crime if committed by an adult, provided the crimes or acts were not part of the same incident.

(e) "Solicit" has the meaning stated in § 11-301 of this article.

(f) "Underlying crime" means:

(1) a crime of violence as defined under § 14-101 of this article;

(2) a felony violation of § 3-203, § 3-701, § 4-503, § 5-602, § **5-603**, § 6-103, § 6-109, § 6-202, § 6-203, § 6-204, § 7-104, § 7-105, § 9-302, § 9-303, or § 9-305 of this article; or

(3) a felony violation of § 5-133 of the Public Safety Article.

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

Approved by the Governor, May 19, 2009.