

HOUSE BILL 495

E1, E2

51r2285

By: **Delegate Dumais**

Introduced and read first time: February 11, 2015

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2015

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Drug Paraphernalia Possession of Less Than 10 Grams of**
3 **Marijuana – Code Violation**

4 FOR the purpose of specifying that a person who violates a certain provision of law
5 involving the use or possession of marijuana in the amount of 10 grams or more is
6 guilty of the misdemeanor of possession of marijuana; altering a certain provision of
7 law so as to provide that a finding of guilt, rather than a violation, of a certain
8 provision of law is a civil offense punishable by a certain fine; requiring that a certain
9 citation contain the date of birth of the person charged; requiring the District Court
10 to schedule a certain case for trial if a certain defendant does not prepay a certain
11 fine within a certain amount of time; establishing certain procedures for a certain
12 Code violation proceeding; providing that a certain defendant is liable for certain
13 costs; authorizing the State's Attorney to prosecute a certain violation in a certain
14 manner; ~~authorizing the court to collect the date of birth of an individual charged~~
15 ~~with violating a certain provision of law~~; establishing that a certain provision of law
16 providing that a certain citation and a certain record of a court are not subject to
17 public inspection and may not be included on a certain Web site only applies under
18 certain circumstances; altering the penalty for the possession or use of certain drug
19 paraphernalia involving the use or possession of less than a certain quantity of
20 marijuana; making the use or possession of certain drug paraphernalia under certain
21 circumstances a civil offense; requiring a court to order certain persons to attend a
22 certain program, refer the person to a certain assessment, and refer the person to a
23 certain treatment, if necessary; providing for the effective date of certain provisions
24 of this Act; providing for the termination of certain provisions of this Act; and
25 generally relating to possession of marijuana.

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 BY repealing and reenacting, without amendments,
2 Article – Criminal Law
3 Section 5–601(a) and (c)(1), 5–619(c)(1), and 5–620(a)
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2014 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Criminal Law
8 Section 5–601(c)(2) and ~~5–601.1~~, 5–601.1, 5–619(c)(2), and 5–620(d)
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2014 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 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 in
18 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 by:

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

22 (ii) the counterfeiting or alteration of a prescription or a written
23 order;

24 (iii) the concealment of a material fact;

25 (iv) the use of a false name or address;

26 (v) falsely assuming the title of or representing to be a
27 manufacturer, distributor, or authorized provider; or

28 (vi) making, issuing, or presenting a false or counterfeit prescription
29 or written order.

30 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person
31 who violates this section is guilty of a misdemeanor and on conviction is subject to
32 imprisonment not exceeding 4 years or a fine not exceeding \$25,000 or both.

1 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
2 person whose violation of this section involves the use or possession of marijuana **IN THE**
3 **AMOUNT OF 10 GRAMS OR MORE IS GUILTY OF THE MISDEMEANOR OF POSSESSION**
4 **OF MARIJUANA AND** is subject to imprisonment not exceeding 1 year or a fine not
5 exceeding \$1,000 or both.

6 (ii) 1. A first [violation of] **FINDING OF GUILT UNDER** this
7 section involving the use or possession of less than 10 grams of marijuana is a civil offense
8 punishable by a fine not exceeding \$100.

9 2. A second [violation of] **FINDING OF GUILT UNDER** this
10 section involving the use or possession of less than 10 grams of marijuana is a civil offense
11 punishable by a fine not exceeding \$250.

12 3. A third or subsequent [violation of] **FINDING OF GUILT**
13 **UNDER** this section involving the use or possession of less than 10 grams of marijuana is a
14 civil offense punishable by a fine not exceeding \$500.

15 4. A. In addition to a fine, a court shall order a person
16 under the age of 21 years who commits a violation punishable under subparagraph 1,
17 2, or 3 of this subparagraph to attend a drug education program approved by the
18 Department of Health and Mental Hygiene, refer the person to an assessment for substance
19 abuse disorder, and refer the person to substance abuse treatment, if necessary.

20 B. In addition to a fine, a court shall order a person at least
21 21 years old who commits a violation punishable under subparagraph 3 of this
22 subparagraph to attend a drug education program approved by the Department of Health
23 and Mental Hygiene, refer the person to an assessment for substance abuse disorder, and
24 refer the person to substance abuse treatment, if necessary.

25 C. **A COURT THAT ORDERS A PERSON TO A DRUG**
26 **EDUCATION PROGRAM OR SUBSTANCE ABUSE ASSESSMENT OR TREATMENT UNDER**
27 **THIS SUBSUBPARAGRAPH MAY HOLD THE CASE SUB CURIA PENDING RECEIPT OF**
28 **PROOF OF COMPLETION OF THE PROGRAM, ASSESSMENT, OR TREATMENT, SUBJECT**
29 **TO DISCRETIONARY MODIFICATION OF SENTENCE OR SANCTIONS FOR**
30 **ENFORCEMENT PURPOSES.**

31 5-601.1.

32 (a) A police officer shall issue a citation to a person who the police officer has
33 probable cause to believe has committed a violation of § 5-601 of this part involving the use
34 or possession of less than 10 grams of marijuana.

35 (b) (1) A violation of § 5-601 of this part involving the use or possession of less
36 than 10 grams of marijuana is a civil offense.

1 (2) Adjudication of a violation under § 5–601 of this part involving the use
2 or possession of less than 10 grams of marijuana:

3 (i) is not a criminal conviction for any purpose; and

4 (ii) does not impose any of the civil disabilities that may result from
5 a criminal conviction.

6 (c) (1) A citation issued for a violation of § 5–601 of this part involving the use
7 or possession of less than 10 grams of marijuana shall be signed by the police officer who
8 issues the citation and shall contain:

9 (i) the ~~name and address~~ **NAME, ADDRESS, AND DATE OF BIRTH**
10 of the person charged;

11 (ii) the date and time that the violation occurred;

12 (iii) the location at which the violation occurred;

13 (iv) the fine that may be imposed;

14 (v) a notice stating that prepayment of the fine is allowed, except as
15 provided in paragraph (2) of this subsection; and

16 (vi) a notice in boldface type that states that the person shall:

17 1. pay the full amount of the preset fine; or

18 2. request a trial date at the date, time, and place established
19 by the District Court by writ or trial notice.

20 (2) (i) If a citation for a violation of § 5–601 of this part involving the
21 use or possession of less than 10 grams of marijuana is issued to a person under the age of
22 21 years, the court shall summon the person for trial.

23 (ii) If the court finds that a person at least 21 years old **WHO HAS**
24 **BEEN ISSUED A CITATION UNDER THIS SECTION** has [committed a third or subsequent
25 violation of] **AT LEAST TWICE PREVIOUSLY BEEN FOUND GUILTY UNDER § 5–601** of this
26 part involving the use or possession of less than 10 grams of marijuana, the court shall
27 summon the person for trial.

28 (d) The form of the citation shall be uniform throughout the State and shall be
29 prescribed by the District Court.

30 (e) (1) The Chief Judge of the District Court shall establish a schedule for the
31 prepayment of the fine.

1 **(2) IF THE DEFENDANT OTHER THAN A DEFENDANT DESCRIBED IN**
2 **SUBSECTION (C)(2) OF THIS SECTION DOES NOT PREPAY THE FINE WITHIN 30 DAYS,**
3 **THE COURT SHALL SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT**
4 **TO APPEAR.**

5 **(F) THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE CITATION**
6 **AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE DISTRICT HAVING**
7 **VENUE.**

8 **(G) (1) THE FAILURE OF A DEFENDANT TO RESPOND TO A SUMMONS**
9 **DESCRIBED IN SUBSECTION (C)(2) OF THIS SECTION SHALL BE GOVERNED BY §**
10 **5-212 OF THE CRIMINAL PROCEDURE ARTICLE.**

11 **(2) IF A PERSON AT LEAST 21 YEARS OLD FAILS TO APPEAR IN**
12 **RESPONSE TO A SUMMONS ISSUED UNDER SUBSECTION (E)(2) OF THIS SECTION, THE**
13 **COURT SHALL ~~ENTER JUDGMENT~~ IMPOSE THE MAXIMUM FINE AGAINST THE**
14 **DEFENDANT ~~IN THE AMOUNT OF THE MAXIMUM APPLICABLE FINE.~~**

15 **(H) IN ANY PROCEEDING FOR A CODE VIOLATION UNDER § 5-601 OF THIS**
16 **PART INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA:**

17 **(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE**
18 **DEFENDANT BY A PREPONDERANCE OF THE EVIDENCE;**

19 **(2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS**
20 **PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF A CRIMINAL CASE;**

21 **(3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED**
22 **A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT**
23 **UNDERSTANDS THOSE CHARGES;**

24 **(4) THE DEFENDANT IS ENTITLED TO CROSS-EXAMINE ALL**
25 **WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR**
26 **WITNESSES ON BEHALF OF THE DEFENDANT, AND TO TESTIFY ON THE DEFENDANT'S**
27 **OWN BEHALF, IF THE DEFENDANT CHOOSES TO DO SO;**

28 **(5) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL**
29 **OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT; AND**

30 **(6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY,**
31 **AND THE VERDICT OF THE COURT IN THE CASE SHALL BE:**

32 **(I) GUILTY OF A CODE VIOLATION;**

1 (II) NOT GUILTY OF A CODE VIOLATION; OR

2 (III) PROBATION BEFORE JUDGMENT, IMPOSED BY THE COURT
3 IN THE SAME MANNER AND TO THE SAME EXTENT AS IS ALLOWED BY LAW IN THE
4 TRIAL OF A CRIMINAL CASE.

5 (I) (1) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE
6 PROCEEDINGS IN THE DISTRICT COURT ~~AND FOR PAYMENT TO THE CRIMINAL~~
7 ~~INJURIES COMPENSATION FUND.~~

8 (2) THE COURT COSTS IN A CODE VIOLATION CASE UNDER § 5-601 OF
9 THIS PART INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF
10 MARIJUANA IN WHICH COSTS ARE IMPOSED ARE \$5.

11 (J) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A
12 CODE VIOLATION UNDER § 5-601 OF THIS PART INVOLVING THE USE OR POSSESSION
13 OF LESS THAN 10 GRAMS OF MARIJUANA IN THE SAME MANNER AS PROSECUTION OF
14 A VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

15 (2) IN A CODE VIOLATION CASE UNDER § 5-601 OF THIS PART
16 INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA, THE
17 STATE'S ATTORNEY MAY:

18 (I) ENTER A NOLLE PROSEQUI OR PLACE THE CASE ON THE
19 STET DOCKET; AND

20 (II) EXERCISE AUTHORITY IN THE SAME MANNER AS
21 PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.

22 [(f)](K) A person issued a citation for a violation of § 5-601 of this part involving
23 the use or possession of less than 10 grams of marijuana who is under the age of 18 years
24 shall be subject to the procedures and dispositions provided in Title 3, Subtitle 8A of the
25 Courts Article.

26 [(g)](L) A citation for a violation of § 5-601 of this part involving the use or
27 possession of less than 10 grams of marijuana and the official record of a court regarding
28 the citation are not subject to public inspection and may not be included on the public Web
29 site maintained by the Maryland Judiciary IF:

30 (1) THE DEFENDANT HAS PLED GUILTY TO OR BEEN FOUND GUILTY
31 OF THE CHARGE AND HAS FULLY PAID THE FINE AND COSTS IMPOSED FOR THE
32 VIOLATION;

1 **(2) THE DEFENDANT HAS BEEN FOUND NOT GUILTY OF THE CHARGE;**
2 **OR**

3 **(3) THE CHARGE HAS BEEN DISMISSED.**

4 ~~**(M) THE COURT MAY COLLECT THE DATE OF BIRTH OF AN INDIVIDUAL**~~
5 ~~**CHARGED WITH A VIOLATION OF § 5-601 OF THIS PART INVOLVING THE USE OR**~~
6 ~~**POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA TO AID IN ENFORCEMENT OF**~~
7 ~~**THIS PART.**~~

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
9 as follows:

10 **Article – Criminal Law**

11 **5-601.**

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

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

16 **(2) obtain or attempt to obtain a controlled dangerous substance, or**
17 **procure or attempt to procure the administration of a controlled dangerous substance by:**

18 **(i) fraud, deceit, misrepresentation, or subterfuge;**

19 **(ii) the counterfeiting or alteration of a prescription or a written**
20 **order;**

21 **(iii) the concealment of a material fact;**

22 **(iv) the use of a false name or address;**

23 **(v) falsely assuming the title of or representing to be a**
24 **manufacturer, distributor, or authorized provider; or**

25 **(vi) making, issuing, or presenting a false or counterfeit prescription**
26 **or written order.**

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

30 **(2) (i) Except as provided in subparagraph (ii) of this paragraph, a**
31 **person whose violation of this section involves the use or possession of marijuana IN THE**

1 AMOUNT OF 10 GRAMS OR MORE IS GUILTY OF THE MISDEMEANOR OF POSSESSION
2 OF MARIJUANA AND is subject to imprisonment not exceeding 1 year or a fine not
3 exceeding \$1,000 or both.

4 (ii) 1. A first [violation of] FINDING OF GUILT UNDER this
5 section involving the use or possession of less than 10 grams of marijuana is a civil offense
6 punishable by a fine not exceeding \$100.

7 2. A second [violation of] FINDING OF GUILT UNDER this
8 section involving the use or possession of less than 10 grams of marijuana is a civil offense
9 punishable by a fine not exceeding \$250.

10 3. A third or subsequent [violation of] FINDING OF GUILT
11 UNDER this section involving the use or possession of less than 10 grams of marijuana is a
12 civil offense punishable by a fine not exceeding \$500.

13 4. A. In addition to a fine, a court shall order a person
14 under the age of 21 years who commits a violation punishable under subparagraph 1,
15 2, or 3 of this subparagraph to attend a drug education program approved by the
16 Department of Health and Mental Hygiene, refer the person to an assessment for substance
17 abuse disorder, and refer the person to substance abuse treatment, if necessary.

18 B. In addition to a fine, a court shall order a person at least
19 21 years old who commits a violation punishable under subparagraph 3 of this
20 subparagraph to attend a drug education program approved by the Department of Health
21 and Mental Hygiene, refer the person to an assessment for substance abuse disorder, and
22 refer the person to substance abuse treatment, if necessary.

23 C. A COURT THAT ORDERS A PERSON TO A DRUG
24 EDUCATION PROGRAM OR SUBSTANCE ABUSE ASSESSMENT OR TREATMENT UNDER
25 THIS SUBSUBPARAGRAPH MAY HOLD THE CASE SUB CURIA PENDING RECEIPT OF
26 PROOF OF COMPLETION OF THE PROGRAM, ASSESSMENT, OR TREATMENT, SUBJECT
27 TO DISCRETIONARY MODIFICATION OF SENTENCE OR SANCTIONS FOR
28 ENFORCEMENT PURPOSES.

29 5-601.1.

30 (a) A police officer shall issue a citation to a person who the police officer has
31 probable cause to believe has committed a violation of § 5-601 of this part, OR § 5-619 OR
32 § 5-620 OF THIS SUBTITLE involving the use or possession of less than 10 grams of
33 marijuana.

34 (b) (1) A violation of § 5-601 of this part, OR § 5-619 OR § 5-620 OF THIS
35 SUBTITLE involving the use or possession of less than 10 grams of marijuana is a civil
36 offense.

1 (2) Adjudication of a violation under § 5–601 of this part, OR § 5–619 OR
2 § 5–620 OF THIS SUBTITLE involving the use or possession of less than 10 grams of
3 marijuana:

4 (i) is not a criminal conviction for any purpose; and

5 (ii) does not impose any of the civil disabilities that may result from
6 a criminal conviction.

7 (c) (1) A citation issued for a violation of § 5–601 of this part, OR § 5–619 OR
8 § 5–620 OF THIS SUBTITLE involving the use or possession of less than 10 grams of
9 marijuana shall be signed by the police officer who issues the citation and shall contain:

10 (i) the [name and address] NAME, ADDRESS, AND DATE OF BIRTH
11 of the person charged;

12 (ii) the date and time that the violation occurred;

13 (iii) the location at which the violation occurred;

14 (iv) the fine that may be imposed;

15 (v) a notice stating that prepayment of the fine is allowed, except as
16 provided in paragraph (2) of this subsection; and

17 (vi) a notice in boldface type that states that the person shall:

18 1. pay the full amount of the preset fine; or

19 2. request a trial date at the date, time, and place established
20 by the District Court by writ or trial notice.

21 (2) (i) If a citation for a violation of § 5–601 of this part, OR § 5–619 OR
22 § 5–620 OF THIS SUBTITLE involving the use or possession of less than 10 grams of
23 marijuana is issued to a person under the age of 21 years, the court shall summon the
24 person for trial.

25 (ii) If the court finds that a person at least 21 years old WHO HAS
26 BEEN ISSUED A CITATION UNDER THIS SECTION has [committed a third or subsequent
27 violation of] AT LEAST TWICE PREVIOUSLY BEEN FOUND GUILTY UNDER § 5–601 of this
28 part, OR § 5–619 OR § 5–620 OF THIS SUBTITLE involving the use or possession of less
29 than 10 grams of marijuana, the court shall summon the person for trial.

30 (d) The form of the citation shall be uniform throughout the State and shall be
31 prescribed by the District Court.

1 (e) **(1) The Chief Judge of the District Court shall establish a schedule for the**
2 **prepayment of the fine.**

3 **(2) IF THE DEFENDANT OTHER THAN A DEFENDANT DESCRIBED IN**
4 **SUBSECTION (C)(2) OF THIS SECTION DOES NOT PREPAY THE FINE WITHIN 30 DAYS,**
5 **THE COURT SHALL SCHEDULE THE CASE FOR TRIAL AND SUMMON THE DEFENDANT**
6 **TO APPEAR.**

7 **(F) THE ISSUING JURISDICTION SHALL FORWARD A COPY OF THE CITATION**
8 **AND A REQUEST FOR TRIAL TO THE DISTRICT COURT IN THE DISTRICT HAVING**
9 **VENUE.**

10 **(G) (1) THE FAILURE OF A DEFENDANT TO RESPOND TO A SUMMONS**
11 **DESCRIBED IN SUBSECTION (C)(2) OF THIS SECTION SHALL BE GOVERNED BY §**
12 **5-212 OF THE CRIMINAL PROCEDURE ARTICLE.**

13 **(2) IF A PERSON AT LEAST 21 YEARS OLD FAILS TO APPEAR IN**
14 **RESPONSE TO A SUMMONS ISSUED UNDER SUBSECTION (E)(2) OF THIS SECTION, THE**
15 **COURT SHALL IMPOSE THE MAXIMUM FINE AGAINST THE DEFENDANT.**

16 **(H) IN ANY PROCEEDING FOR A CODE VIOLATION UNDER § 5-601 OF THIS**
17 **PART, OR § 5-619 OR § 5-620 OF THIS SUBTITLE INVOLVING THE USE OR POSSESSION**
18 **OF LESS THAN 10 GRAMS OF MARIJUANA:**

19 **(1) THE STATE HAS THE BURDEN TO PROVE THE GUILT OF THE**
20 **DEFENDANT BY A PREPONDERANCE OF THE EVIDENCE;**

21 **(2) THE COURT SHALL APPLY THE EVIDENTIARY STANDARDS AS**
22 **PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF A CRIMINAL CASE;**

23 **(3) THE COURT SHALL ENSURE THAT THE DEFENDANT HAS RECEIVED**
24 **A COPY OF THE CHARGES AGAINST THE DEFENDANT AND THAT THE DEFENDANT**
25 **UNDERSTANDS THOSE CHARGES;**

26 **(4) THE DEFENDANT IS ENTITLED TO CROSS-EXAMINE ALL**
27 **WITNESSES WHO APPEAR AGAINST THE DEFENDANT, TO PRODUCE EVIDENCE OR**
28 **WITNESSES ON BEHALF OF THE DEFENDANT, AND TO TESTIFY ON THE DEFENDANT'S**
29 **OWN BEHALF, IF THE DEFENDANT CHOOSES TO DO SO;**

30 **(5) THE DEFENDANT IS ENTITLED TO BE REPRESENTED BY COUNSEL**
31 **OF THE DEFENDANT'S CHOICE AND AT THE EXPENSE OF THE DEFENDANT; AND**

32 **(6) THE DEFENDANT MAY ENTER A PLEA OF GUILTY OR NOT GUILTY,**
33 **AND THE VERDICT OF THE COURT IN THE CASE SHALL BE;**

1 **(I) GUILTY OF A CODE VIOLATION;**

2 **(II) NOT GUILTY OF A CODE VIOLATION;**

3 **(III) PROBATION BEFORE JUDGMENT, IMPOSED BY THE COURT**
4 **IN THE SAME MANNER AND TO THE SAME EXTENT AS IS ALLOWED BY LAW IN THE**
5 **TRIAL OF A CRIMINAL CASE.**

6 **(I) (1) THE DEFENDANT IS LIABLE FOR THE COSTS OF THE**
7 **PROCEEDINGS IN THE DISTRICT COURT.**

8 **(2) THE COURT COSTS IN A CODE VIOLATION CASE UNDER § 5-601 OF**
9 **THIS PART, OR § 5-619 OR § 5-620 OF THIS SUBTITLE INVOLVING THE USE OR**
10 **POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA IN WHICH COSTS ARE IMPOSED**
11 **ARE \$5.**

12 **(J) (1) THE STATE'S ATTORNEY FOR ANY COUNTY MAY PROSECUTE A**
13 **CODE VIOLATION UNDER § 5-601 OF THIS PART, OR § 5-619 OR § 5-620 OF THIS**
14 **SUBTITLE INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF**
15 **MARIJUANA IN THE SAME MANNER AS PROSECUTION OF A VIOLATION OF THE**
16 **CRIMINAL LAWS OF THE STATE.**

17 **(2) IN A CODE VIOLATION CASE UNDER § 5-601 OF THIS PART, OR §**
18 **5-619 OR § 5-620 OF THIS SUBTITLE INVOLVING THE USE OR POSSESSION OF LESS**
19 **THAN 10 GRAMS OF MARIJUANA, THE STATE'S ATTORNEY MAY:**

20 **(I) ENTER A NOLLE PROSEQUI OR PLACE THE CASE ON THE**
21 **STET DOCKET; AND**

22 **(II) EXERCISE AUTHORITY IN THE SAME MANNER AS**
23 **PRESCRIBED BY LAW FOR VIOLATION OF THE CRIMINAL LAWS OF THE STATE.**

24 **[(f)](K) A person issued a citation for a violation of § 5-601 of this part, OR §**
25 **5-619 OR § 5-620 OF THIS SUBTITLE involving the use or possession of less than 10**
26 **grams of marijuana who is under the age of 18 years shall be subject to the procedures and**
27 **dispositions provided in Title 3, Subtitle 8A of the Courts Article.**

28 **[(g)](L) A citation for a violation of § 5-601 of this part, OR § 5-619 OR §**
29 **5-620 OF THIS SUBTITLE involving the use or possession of less than 10 grams of**
30 **marijuana and the official record of a court regarding the citation are not subject to public**
31 **inspection and may not be included on the public Web site maintained by the Maryland**
32 **Judiciary IF:**

1 **(1) THE DEFENDANT HAS PLED GUILTY TO OR BEEN FOUND GUILTY**
2 **OF THE CHARGE AND HAS FULLY PAID THE FINE AND COSTS IMPOSED FOR THE**
3 **VIOLATION;**

4 **(2) THE DEFENDANT HAS BEEN FOUND NOT GUILTY OF THE CHARGE;**
5 **OR**

6 **(3) THE CHARGE HAS BEEN DISMISSED.**

7 5-619.

8 (c) (1) Unless authorized under this title, a person may not use or possess with
9 intent to use drug paraphernalia to:

10 (i) plant, propagate, cultivate, grow, harvest, manufacture,
11 compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or
12 conceal a controlled dangerous substance; or

13 (ii) inject, ingest, inhale, or otherwise introduce into the human body
14 a controlled dangerous substance.

15 (2) (I) **[A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
16 **PARAGRAPH, A person who violates this subsection is guilty of a misdemeanor and on**
17 **conviction is subject to:**

18 [(i)] **1. for a first violation, a fine not exceeding \$500; and**

19 [(ii)] **2. for each subsequent violation, imprisonment not**
20 **exceeding 2 years or a fine not exceeding \$2,000 or both.**

21 (II) **1. A FIRST FINDING OF GUILT UNDER THIS SECTION**
22 **INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA IS A**
23 **CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING \$100.**

24 **2. A SECOND FINDING OF GUILT UNDER THIS SECTION**
25 **INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA IS A**
26 **CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING \$250.**

27 **3. A THIRD OR SUBSEQUENT FINDING OF GUILT UNDER**
28 **THIS SECTION INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF**
29 **MARIJUANA IS A CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING \$500.**

30 **4. A. IN ADDITION TO A FINE, A COURT SHALL ORDER**
31 **A PERSON UNDER THE AGE OF 21 YEARS WHO COMMITS A VIOLATION PUNISHABLE**
32 **UNDER SUBSUBPARAGRAPH 1, 2, OR 3 OF THIS SUBPARAGRAPH TO ATTEND A DRUG**

1 EDUCATION PROGRAM APPROVED BY THE DEPARTMENT OF HEALTH AND MENTAL
2 HYGIENE, REFER THE PERSON TO AN ASSESSMENT FOR SUBSTANCE ABUSE
3 DISORDER, AND REFER THE PERSON TO SUBSTANCE ABUSE TREATMENT, IF
4 NECESSARY.

5 B. IN ADDITION TO A FINE, A COURT SHALL ORDER A
6 PERSON AT LEAST 21 YEARS OLD WHO COMMITS A VIOLATION PUNISHABLE UNDER
7 SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH TO ATTEND A DRUG EDUCATION
8 PROGRAM APPROVED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE,
9 REFER THE PERSON TO AN ASSESSMENT FOR SUBSTANCE ABUSE DISORDER, AND
10 REFER THE PERSON TO SUBSTANCE ABUSE TREATMENT, IF NECESSARY.

11 5-620.

12 (a) Unless authorized under this title, a person may not:

13 (1) obtain or attempt to obtain controlled paraphernalia by:

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

15 (ii) counterfeiting a prescription or a written order;

16 (iii) concealing a material fact or the use of a false name or address;

17 (iv) falsely assuming the title of or representing to be a
18 manufacturer, distributor, or authorized provider; or

19 (v) making or issuing a false or counterfeit prescription or written
20 order; or

21 (2) possess or distribute controlled paraphernalia under circumstances
22 which reasonably indicate an intention to use the controlled paraphernalia for purposes of
23 illegally administering a controlled dangerous substance.

24 (d) (1) Except as provided in paragraph (2) of this subsection, a person who
25 violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment
26 not exceeding 4 years or a fine not exceeding \$25,000 or both.

27 (2) (I) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
28 PARAGRAPH, A person who violates this section involving the use or possession of
29 marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000
30 or both.

31 (II) 1. A FIRST FINDING OF GUILT UNDER THIS SECTION
32 INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA IS A
33 CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING \$100.

1 **2. A SECOND FINDING OF GUILT UNDER THIS SECTION**
 2 **INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF MARIJUANA IS A**
 3 **CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING \$250.**

4 **3. A THIRD OR SUBSEQUENT FINDING OF GUILT UNDER**
 5 **THIS SECTION INVOLVING THE USE OR POSSESSION OF LESS THAN 10 GRAMS OF**
 6 **MARIJUANA IS A CIVIL OFFENSE PUNISHABLE BY A FINE NOT EXCEEDING \$500.**

7 **4. A. IN ADDITION TO A FINE, A COURT SHALL ORDER**
 8 **A PERSON UNDER THE AGE OF 21 YEARS WHO COMMITS A VIOLATION PUNISHABLE**
 9 **UNDER SUBSUBPARAGRAPH 1, 2, OR 3 OF THIS SUBPARAGRAPH TO ATTEND A DRUG**
 10 **EDUCATION PROGRAM APPROVED BY THE DEPARTMENT OF HEALTH AND MENTAL**
 11 **HYGIENE, REFER THE PERSON TO AN ASSESSMENT FOR SUBSTANCE ABUSE**
 12 **DISORDER, AND REFER THE PERSON TO SUBSTANCE ABUSE TREATMENT, IF**
 13 **NECESSARY.**

14 **B. IN ADDITION TO A FINE, A COURT SHALL ORDER A**
 15 **PERSON AT LEAST 21 YEARS OLD WHO COMMITS A VIOLATION PUNISHABLE UNDER**
 16 **SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH TO ATTEND A DRUG EDUCATION**
 17 **PROGRAM APPROVED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE,**
 18 **REFER THE PERSON TO AN ASSESSMENT FOR SUBSTANCE ABUSE DISORDER, AND**
 19 **REFER THE PERSON TO SUBSTANCE ABUSE TREATMENT, IF NECESSARY.**

20 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
 21 effect on the taking effect of Chapter (H.B. 105) of the Acts of the General Assembly of
 22 2015. If Section 2 of this Act takes effect, Section 1 of this Act shall be abrogated and of no
 23 further force and effect.

24 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
 25 of Section 3 of this Act, this Act shall take effect October 1, 2015.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.