

SENATE BILL 445

E1

7lr1619

By: **Senator Cassilly**

Introduced and read first time: January 30, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Smoking Marijuana in a Public Place – Prohibition**

3 FOR the purpose of prohibiting a person from smoking marijuana in certain public places;
4 providing for the application of this Act; establishing a certain penalty; providing for
5 the expungement of a conviction under this Act; defining certain terms; and
6 generally relating to smoking marijuana.

7 BY repealing and reenacting, without amendments,
8 Article – Criminal Law
9 Section 5–601(a)
10 Annotated Code of Maryland
11 (2012 Replacement Volume and 2016 Supplement)

12 BY repealing
13 Article – Criminal Law
14 Section 5–601(c)(4)
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2016 Supplement)

17 BY adding to
18 Article – Criminal Law
19 Section 5–601.2
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2016 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Criminal Procedure
24 Section 10–105(a)
25 Annotated Code of Maryland
26 (2008 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Criminal Law**

4 5–601.

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

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

9 (2) obtain or attempt to obtain a controlled dangerous substance, or
10 procure or attempt to procure the administration of a controlled dangerous substance by:

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

12 (ii) the counterfeiting or alteration of a prescription or a written
13 order;

14 (iii) the concealment of a material fact;

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

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

18 (vi) making, issuing, or presenting a false or counterfeit prescription
19 or written order.

20 (c) [(4) A violation of this section involving the smoking of marijuana in a
21 public place is a civil offense punishable by a fine not exceeding \$500.]

22 **5–601.2.**

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
24 INDICATED.

25 (2) “PUBLIC CONVEYANCE” HAS THE MEANING STATED IN § 10–201
26 OF THIS ARTICLE.

27 (3) “PUBLIC PLACE” HAS THE MEANING STATED IN § 10–201 OF THIS
28 ARTICLE.

1 **(B) FOR PURPOSES OF PROSECUTION UNDER THIS SECTION, A PUBLIC**
2 **PLACE OR PUBLIC CONVEYANCE NEED NOT BE DEVOTED SOLELY TO PUBLIC USE.**

3 **(C) A PERSON MAY NOT SMOKE MARIJUANA:**

4 **(1) IN A PUBLIC PLACE;**

5 **(2) IN OR ON A PUBLIC CONVEYANCE; OR**

6 **(3) IN ANY AREA OTHERWISE ACCESSIBLE TO THE PUBLIC,**
7 **INCLUDING:**

8 **(I) AN INDOOR AREA OPEN TO THE PUBLIC;**

9 **(II) AN INDOOR PLACE IN WHICH MEETINGS ARE OPEN TO THE**
10 **PUBLIC;**

11 **(III) A GOVERNMENT-OWNED OR GOVERNMENT-OPERATED**
12 **MEANS OF MASS TRANSPORTATION; OR**

13 **(IV) AN INDOOR PLACE OF EMPLOYMENT.**

14 **(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR**
15 **AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.**

16 **Article – Criminal Procedure**

17 10–105.

18 (a) A person who has been charged with the commission of a crime, including a
19 violation of the Transportation Article for which a term of imprisonment may be imposed,
20 or who has been charged with a civil offense or infraction, except a juvenile offense, as a
21 substitute for a criminal charge may file a petition listing relevant facts for expungement
22 of a police record, court record, or other record maintained by the State or a political
23 subdivision of the State if:

24 (1) the person is acquitted;

25 (2) the charge is otherwise dismissed;

26 (3) a probation before judgment is entered, unless the person is charged
27 with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211
28 of the Criminal Law Article;

29 (4) a nolle prosequi or nolle prosequi with the requirement of drug or
30 alcohol treatment is entered;

1 (5) the court indefinitely postpones trial of a criminal charge by marking
2 the criminal charge “stet” or stet with the requirement of drug or alcohol abuse treatment
3 on the docket;

4 (6) the case is compromised under § 3–207 of the Criminal Law Article;

5 (7) the charge was transferred to the juvenile court under § 4–202 of this
6 article;

7 (8) the person:

8 (i) is convicted of only one criminal act, and that act is not a crime
9 of violence; and

10 (ii) is granted a full and unconditional pardon by the Governor;

11 (9) the person was convicted of a crime or found not criminally responsible
12 under any State or local law that prohibits:

13 (i) urination or defecation in a public place;

14 (ii) panhandling or soliciting money;

15 (iii) drinking an alcoholic beverage in a public place;

16 (iv) obstructing the free passage of another in a public place or a
17 public conveyance;

18 (v) sleeping on or in park structures, such as benches or doorways;

19 (vi) loitering;

20 (vii) vagrancy;

21 (viii) riding a transit vehicle without paying the applicable fare or
22 exhibiting proof of payment; [or]

23 (ix) except for carrying or possessing an explosive, acid, concealed
24 weapon, or other dangerous article as provided in § 7–705(b)(6) of the Transportation
25 Article, any of the acts specified in § 7–705 of the Transportation Article; **OR**

26 **(X) SMOKING MARIJUANA IN A PUBLIC PLACE;**

27 (10) the person was found not criminally responsible under any State or
28 local law that prohibits misdemeanor:

- 1 (i) trespass;
- 2 (ii) disturbing the peace; or
- 3 (iii) telephone misuse; or
- 4 (11) the person was convicted of a crime and the act on which the conviction
- 5 was based is no longer a crime.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

7 October 1, 2017.