

SENATE BILL 420

E1
SB 704/20 – JPR

1r0764
CF HB 372

By: **Senator Carter**

Introduced and read first time: January 20, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2021

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Drug Paraphernalia for Administration – Decriminalization**

3 FOR the purpose of repealing the prohibition against a person using or possessing with
4 intent to use drug paraphernalia to inject, ingest, inhale, or otherwise introduce into
5 the human body a controlled dangerous substance; ~~repealing the prohibition against~~
6 ~~a person delivering or selling, or manufacturing or possessing with intent to deliver~~
7 ~~or sell drug paraphernalia under certain circumstances;~~ altering a prohibition
8 against a person possessing or distributing controlled paraphernalia under
9 circumstances which reasonably indicate an intention to use the controlled
10 paraphernalia for certain purposes; altering a list of certain items that indicate
11 intent to use certain controlled paraphernalia for certain purposes; altering penalties
12 for a violation of certain provisions relating to drug paraphernalia; altering a certain
13 definition; and generally relating to drug paraphernalia.

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 5–101(h), 5–619(c) and (d), and 5–620(a), (b), and (d)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2020 Supplement)

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

21 **Article – Criminal Law**

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 5-101.

2 (h) "Controlled paraphernalia" means:

3 (1) [a hypodermic syringe, needle, or any other object or combination of
4 objects adapted to administer a controlled dangerous substance by hypodermic injection;

5 (2)] a gelatin capsule, glassine envelope, or other container suitable for
6 packaging individual quantities of a controlled dangerous substance; or

7 [(3)] (2) lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine
8 hydrochloride, or any other substance suitable as a diluent or adulterant.

9 5-619.

10 (c) (1) This subsection does not apply to the use or possession of drug
11 paraphernalia involving the use or possession of marijuana.

12 (2) Unless authorized under this title, a person may not use or possess with
13 intent to use drug paraphernalia to[:

14 (i)] plant, propagate, cultivate, grow, harvest, manufacture,
15 compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a
16 controlled dangerous substance[; or

17 (ii) inject, ingest, inhale, or otherwise introduce into the human body
18 a controlled dangerous substance].

19 (3) A person who violates this subsection is guilty of a misdemeanor and
20 on conviction is subject to:

21 (i) for a first violation, a fine not exceeding \$500; and

22 (ii) for each subsequent violation, imprisonment not exceeding [2
23 years] 1 YEAR or a fine not exceeding [\$2,000] \$1,000 or both.

24 (4) A person who is convicted of violating this subsection for the first time
25 and who previously has been convicted of violating subsection (d)(4) of this section is subject
26 to the penalty specified under paragraph (3)(ii) of this subsection.

27 (d) (1) Unless authorized under this title, a person may not deliver or sell, or
28 manufacture or possess with intent to deliver or sell, drug paraphernalia, knowing, or
29 under circumstances where one reasonably should know, that the drug paraphernalia will
30 be used to[:

1 (i) plant, propagate, cultivate, grow, harvest, manufacture,
2 compound, convert, produce, process, prepare, pack, repack, store, contain, or conceal a
3 controlled dangerous substance; or

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

6 (2) A person who violates this subsection is guilty of a misdemeanor and
7 on conviction is subject to:

8 (i) for a first violation, a fine not exceeding \$500; and

9 (ii) for each subsequent violation, imprisonment not exceeding [2
10 years] **1 YEAR** or a fine not exceeding [\$2,000] **\$1,000** or both.

11 (3) A person who is convicted of violating this subsection for the first time
12 and who previously has been convicted of violating paragraph (4) of this subsection is
13 subject to imprisonment not exceeding 2 years or a fine not exceeding \$2,000 or both.

14 (4) If a person who is at least 18 years old violates paragraph (1) of this
15 subsection by delivering drug paraphernalia to a minor who is at least 3 years younger than
16 the person, the person is guilty of a separate misdemeanor and on conviction is subject to
17 imprisonment not exceeding 8 years or a fine not exceeding \$15,000 or both.

18 5-620.

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

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

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

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

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

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

26 (v) making or issuing a false or counterfeit prescription or written
27 order; or

28 (2) possess or distribute controlled paraphernalia under circumstances
29 which reasonably indicate an intention to use the controlled paraphernalia for purposes of
30 illegally [administering] **MANUFACTURING, DISTRIBUTING, OR DISPENSING** a
31 controlled dangerous substance.

1 (b) Evidence of circumstances that reasonably indicate an intent to use controlled
2 paraphernalia to manufacture, [administer,] distribute, or dispense a controlled dangerous
3 substance unlawfully include the close proximity of the controlled paraphernalia to an
4 adulterant, diluent, or equipment commonly used to illegally manufacture, [administer,]
5 distribute, or dispense controlled dangerous substances, including:

6 (1) a scale;

7 (2) a sieve;

8 (3) a strainer;

9 (4) [a measuring spoon;

10 (5)] staples;

11 [(6)] (5) a stapler;

12 [(7)] (6) a glassine envelope;

13 [(8)] (7) a gelatin capsule;

14 [(9)] (8) procaine hydrochloride;

15 [(10)] (9) mannitol;

16 [(11)] (10) lactose;

17 [(12)] (11) quinine; and

18 [(13)] (12) a controlled dangerous substance.

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

22 [(2) A person who violates this section involving the use or possession of
23 marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000
24 or both.]

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2021.