

HOUSE BILL 481

E1
HB 372/21 – JUD

2lr2047
CF 2lr2046

By: **Delegates Moon, Bridges, Cardin, Charkoudian, Crutchfield, Cullison, Feldmark, Foley, Fraser–Hidalgo, Gilchrist, Ivey, Kelly, Lehman, Lierman, Lopez, Love, Palakovich Carr, Queen, Reznik, Ruth, Shetty, Solomon, Stewart, Terrasa, Wilkins, and Williams**

Introduced and read first time: January 21, 2022

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **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; altering a prohibition against a
6 person possessing or distributing controlled paraphernalia under circumstances
7 which reasonably indicate an intention to use the controlled paraphernalia for
8 certain purposes; altering a list of certain items that indicate intent to use certain
9 controlled paraphernalia for certain purposes; and generally relating to drug
10 paraphernalia.

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 5–101(h), 5–619(c) and (d), and 5–620(a), (b), and (d)
14 Annotated Code of Maryland
15 (2021 Replacement Volume and 2021 Supplement)

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

18 **Article – Criminal Law**

19 5–101.

20 (h) “Controlled paraphernalia” means:

21 (1) [a hypodermic syringe, needle, or any other object or combination of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 objects adapted to administer a controlled dangerous substance by hypodermic injection;

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

4 [(3)] (2) lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine
5 hydrochloride, or any other substance suitable as a diluent or adulterant.

6 5–619.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 5–620.

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

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

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

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

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

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

21 (v) making or issuing a false or counterfeit prescription or written
22 order; or

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

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

- 1 (1) a scale;
- 2 (2) a sieve;
- 3 (3) a strainer;
- 4 (4) [a measuring spoon;
- 5 (5)] staples;
- 6 [(6) (5) a stapler;
- 7 [(7) (6) a glassine envelope;
- 8 [(8) (7) a gelatin capsule;
- 9 [(9) (8) procaine hydrochloride;
- 10 [(10) (9) mannitol;
- 11 [(11) (10) lactose;
- 12 [(12) (11) quinine; and
- 13 [(13) (12) a controlled dangerous substance.

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2022.