E1 3lr1002 (PRE-FILED) CF 3lr1004

By: Senator Carter

Requested: November 20, 2022

Introduced and read first time: January 11, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

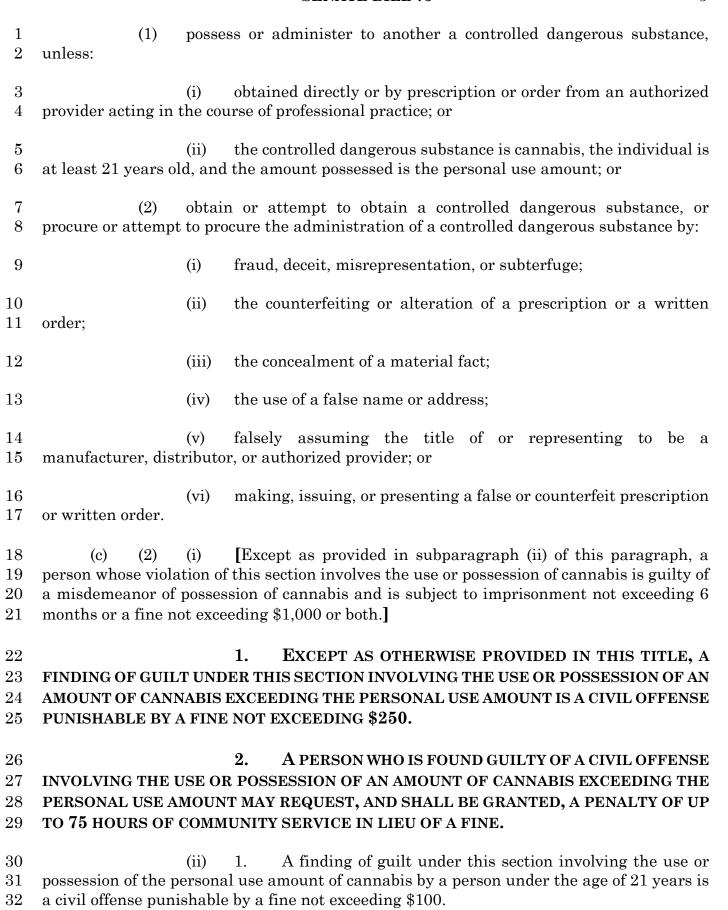
1 AN	ACT	concerning

2 Criminal Law – C	Cannabis-Related	Offenses –	Civil	Penalties
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- 3 FOR the purpose of substituting civil penalties in place of criminal penalties for certain
- 4 offenses relating to possessing, possessing with the intent to distribute, and
- 5 cultivating cannabis and manufacturing cannabis products; and generally relating
- 6 to cannabis—related offenses.
- 7 BY repealing and reenacting, without amendments,
- 8 Article Criminal Law
- 9 Section 5–101(a) and (u) and 5–601(a)
- 10 Annotated Code of Maryland
- 11 (2021 Replacement Volume and 2022 Supplement)
- 12 (As enacted by Chapter 26 of the Acts of the General Assembly of 2022)
- 13 BY repealing
- 14 Article Criminal Law
- 15 Section 5–101(e–2)
- 16 Annotated Code of Maryland
- 17 (2021 Replacement Volume and 2022 Supplement)
- 18 (As enacted by Chapter 26 of the Acts of the General Assembly of 2022)
- 19 BY repealing and reenacting, with amendments,
- 20 Article Criminal Law
- 21 Section 5–601(c)(2) and (d), 5–601.2, and 5–602
- 22 Annotated Code of Maryland
- 23 (2021 Replacement Volume and 2022 Supplement)
- 24 (As enacted by Chapter 26 of the Acts of the General Assembly of 2022)
- 25 BY repealing and reenacting, with amendments,
- 26 Article Criminal Law

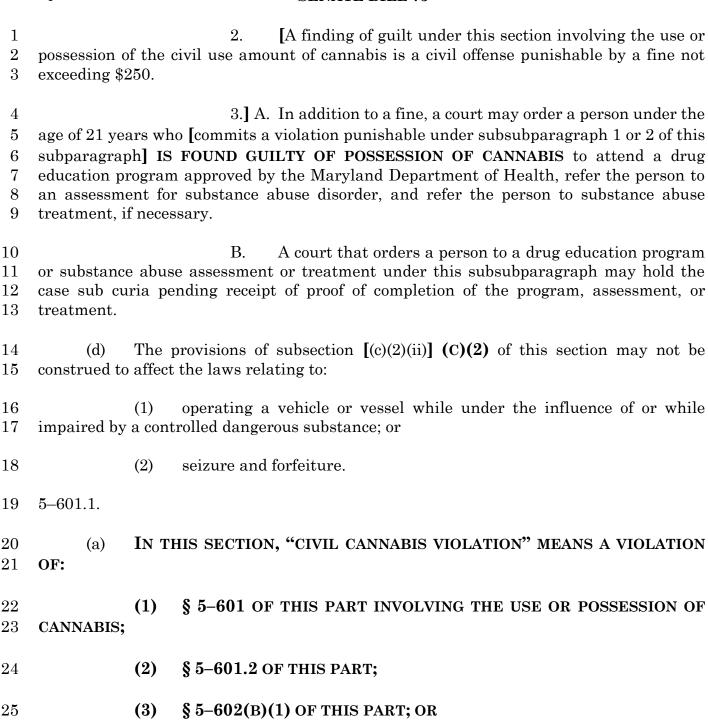


1 2 3	Anno	on 5–601.1 and 5–607 tated Code of Maryland Replacement Volume and 2022 Supplement)			
4 5 6 7 8	BY repealing and reenacting, without amendments, Article – Criminal Law Section 5–603 Annotated Code of Maryland (2021 Replacement Volume and 2022 Supplement)				
9 10	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:				
11	Article - Criminal Law				
12	5–101.				
13	(a)	In this title the following words have the meanings indicated.			
14	[(e-2) "Civil use amount" means:			
15 16	exceed 2.5 o	(1) an amount of usable cannabis that exceeds 1.5 ounces but does not unces;			
17 18	exceed 20 gr	(2) an amount of concentrated cannabis that exceeds 12 grams but does not rams; or			
19 20 21	delta-9-tet milligrams.	(3) an amount of cannabis products containing rahydrocannabinol that exceeds 750 milligrams but does not exceed 1,250			
22	(u)	"Personal use amount" means:			
23		(1) an amount of usable cannabis that does not exceed 1.5 ounces;			
24		(2) an amount of concentrated cannabis that does not exceed 12 grams;			
25 26	delta-9-tet	(3) an amount of cannabis products containing rahydrocannabinol that does not exceed 750 milligrams; or			
27		(4) two or fewer cannabis plants.			
28	5-601.				
29	(a)	Except as otherwise provided in this title, a person may not:			



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(4)



(B) A police officer shall issue a citation to a person who the police officer has probable cause to believe has committed a CIVIL CANNABIS violation [of § 5–601 of this part involving the use or possession of the civil use amount of cannabis or the personal use amount of cannabis].

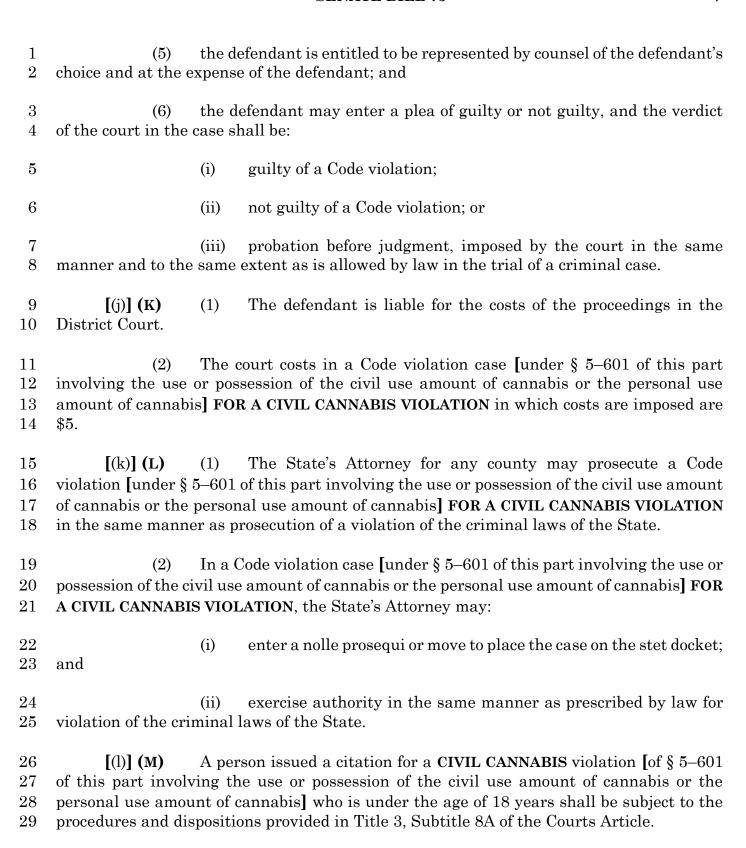
 $\S 5-603(B)$ OF THIS PART.

1 [(b)] **(C)** A CIVIL CANNABIS violation of § 5–601 of this part involving (1) 2 the use or possession of the civil use amount of cannabis or the personal use amount of 3 cannabis is a civil offense. 4 Adjudication of a CIVIL CANNABIS violation [under § 5–601 of this part (2) involving the use or possession of the civil use amount of cannabis or the personal use 5 amount of cannabis]: 6 7 is not a criminal conviction for any purpose; and (i) 8 (ii) does not impose any of the civil disabilities that may result from 9 a criminal conviction. 10 [(c)] **(D)** (1) A citation issued for a CIVIL CANNABIS violation [of § 5–601 of 11 this part involving the use or possession of the civil use amount of cannabis or the personal 12 use amount of cannabis shall be signed by the police officer who issues the citation and 13 shall contain: 14 (i) the name, address, and date of birth of the person charged; 15 (ii) the date and time that the violation occurred: 16 (iii) the location at which the violation occurred; 17 (iv) the fine that may be imposed, AND, IF APPLICABLE, THAT COMMUNITY SERVICE MAY BE REQUESTED IN LIEU OF A FINE; 18 19 (v) a notice stating that prepayment of the fine is allowed, except as provided in paragraph (2) of this subsection; and 20 21 a notice in boldface type that states that the person shall: (vi) 221. pay the full amount of the preset fine; or 232. request a trial date at the date, time, and place established 24by the District Court by writ or trial notice. 25If a citation for a CIVIL CANNABIS violation [of § 5-601 of this part (2) 26 involving the use or possession of the civil use amount of cannabis or the personal use 27 amount of cannabis is issued to a person under the age of 21 years, the court shall summon 28 the person for trial. 29 The form of the citation shall be uniform throughout the State and shall [(d)] **(E)**

be prescribed by the District Court.

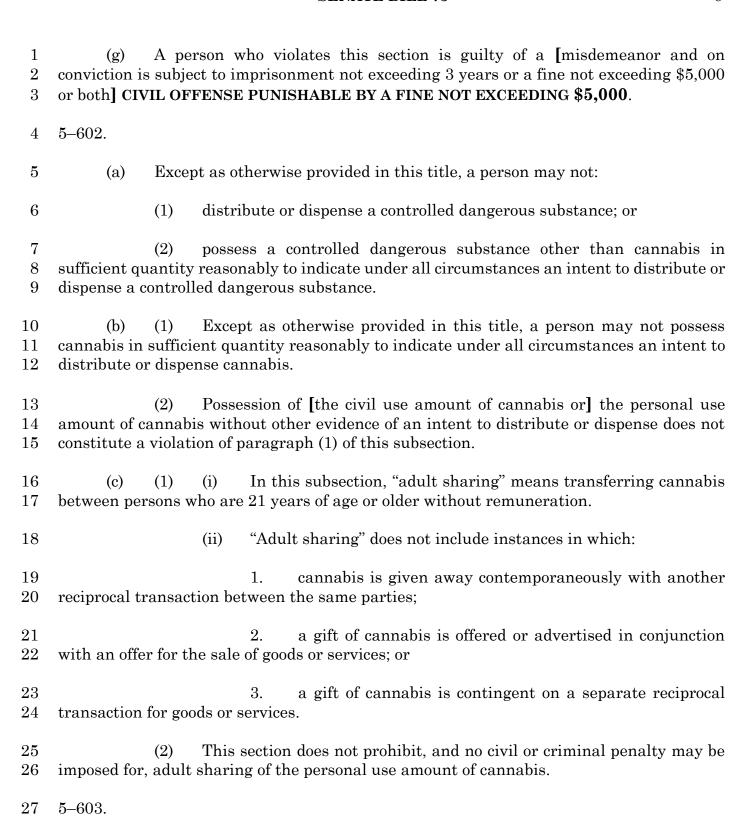
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- 1 **[(e)] (F)** (1) The Chief Judge of the District Court shall establish a schedule 2 for the prepayment of the fine.
- 3 (2) Prepayment of a fine shall be considered a plea of guilty to a Code 4 violation.
- 5 (3) A person described in subsection **[**(c)(2)**] (D)(2)** of this section may not 6 prepay the fine.
- 7 [(f)] (G) (1) A person may request COMMUNITY SERVICE, IF APPLICABLE, 8 OR a trial by sending a request for trial to the District Court in the jurisdiction where the 9 citation was issued within 30 days of the issuance of the citation.
- 10 (2) If a person other than a person described in subsection [(c)(2)] (D)(2)
 11 of this section does not request **COMMUNITY SERVICE OR** a trial or prepay the fine within
 12 30 days of the issuance of the citation, the court may impose the maximum fine and costs
 13 against the person and find the person is guilty of a Code violation.
- 14 **[(g)] (H)** The issuing jurisdiction shall forward a copy of the citation and a request for trial to the District Court in the district having venue.
- [(h)] (I) (1) The failure of a defendant to respond to a summons described in subsection [(c)(2)] (D)(2) of this section shall be governed by § 5–212 of the Criminal Procedure Article.
- 19 (2) If a person [at least 21 years old] OTHER THAN A PERSON DESCRIBED
 20 IN SUBSECTION (D)(2) OF THIS SECTION fails to appear after having requested
 21 COMMUNITY SERVICE OR a trial, the court may impose the maximum fine and costs
 22 against the person and find the person is guilty of a Code violation.
- [(i)] (J) In any proceeding for a Code violation [under § 5–601 of this part involving the use or possession of the civil use amount of cannabis or the personal use amount of cannabis] FOR A CIVIL CANNABIS VIOLATION:
- 26 (1) the State has the burden to prove the guilt of the defendant by a 27 preponderance of the evidence;
- 28 (2) the court shall apply the evidentiary standards as prescribed by law or 29 rule for the trial of a criminal case;
- 30 (3) the court shall ensure that the defendant has received a copy of the 31 charges against the defendant and that the defendant understands those charges;
- 32 (4) the defendant is entitled to cross—examine all witnesses who appear 33 against the defendant, to produce evidence or witnesses on behalf of the defendant, and to 34 testify on the defendant's own behalf, if the defendant chooses to do so:



[(m)] (N) A citation for a CIVIL CANNABIS violation [of § 5-601 of this part involving the use or possession of the civil use amount of cannabis or the personal use amount of cannabis] and the official record of a court regarding the citation are not subject

- to public inspection and may not be included on the public website maintained by the Maryland Judiciary if:
- 3 (1) the defendant has prepaid the fine;
- 4 (2) the defendant has pled guilty to or been found guilty of the Code 5 violation and has fully paid the fine and costs imposed **OR COMPLETED THE COMMUNITY** 6 **SERVICE IMPOSED** for the violation;
- 7 (3) the defendant has received a probation before judgment and has fully 8 paid the fine and completed any terms imposed by the court;
- 9 (4) the case has been removed from the stet docket after the defendant fully 10 paid the fine and completed any terms imposed by the court;
- 11 (5) the State has entered a nolle prosequi;
- 12 (6) the defendant has been found not guilty of the charge; or
- 13 (7) the charge has been dismissed.
- 14 5–601.2.
- 15 (a) A person may not cultivate cannabis plants in a manner that is contrary to 16 this section.
- 17 (b) Cannabis plants may not be cultivated in a location where the plants are 18 subject to public view, including a view from another private property, without the use of 19 binoculars, aircraft, or other optical aids.
- 20 (c) (1) In this subsection, "reasonable precautions" includes cultivating 21 cannabis in an enclosed locked space to which persons under the age of 21 years do not 22 possess a key.
- 23 (2) A person who cultivates cannabis shall take reasonable precautions to 24 ensure the plants are secure from unauthorized access and access by a person under the 25 age of 21 years.
- 26 (d) Cannabis cultivation may occur only on property lawfully in possession of the 27 cultivator or with the consent of the person in lawful possession of the property.
- 28 (e) A person under the age of 21 years may not cultivate cannabis plants.
- 29 (f) (1) A person may not cultivate more than two cannabis plants.
- 30 (2) If two or more persons at least 21 years old reside at the same residence, 31 no more than two cannabis plants may be cultivated at that residence.



28 (a) Except as otherwise provided in this title, a person may not manufacture a 29 controlled dangerous substance other than cannabis, or manufacture, distribute, or possess 30 a machine, equipment, instrument, implement, device, or a combination of them that is 31 adapted to produce a controlled dangerous substance other than cannabis under 3

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circumstances that reasonably indicate an intent to use it to produce, sell, or dispense a controlled dangerous substance other than cannabis in violation of this title.

- (b) Except as otherwise provided in this title, a person may not cultivate or grow cannabis or manufacture a cannabis product, or manufacture, distribute, or possess a machine, equipment, an instrument, an implement, a device, or a combination of them that is adapted to produce cannabis or a cannabis product under circumstances that reasonably indicate an intent to use it to produce, sell, or dispense cannabis or a cannabis product in violation of this title.
- 9 5–607.
- 10 (a) (1) Except as provided in paragraph (2) of this subsection and §§ 5–608 and 5–609 of this subtitle, a person who violates a provision of §§ 5–602 through 5–606 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$15,000 or both.
- 14 (2) (I) A person who violates § 5–602(b)(1) or § 5–603(b) of this subtitle 15 is guilty of a [misdemeanor and on conviction is subject to imprisonment not exceeding 3 16 years or a fine not exceeding \$5,000 or both] CIVIL OFFENSE PUNISHABLE BY A FINE 17 NOT EXCEEDING \$5,000.
- 18 (II) A PERSON WHO IS FOUND GUILTY OF A CIVIL OFFENSE 19 UNDER THIS SECTION MAY REQUEST, AND SHALL BE GRANTED, A PENALTY OF UP TO 20 500 HOURS OF COMMUNITY SERVICE IN LIEU OF A FINE.
- 21 (b) A person convicted under this section is not prohibited from participating in a 22 drug treatment program under § 8–507 of the Health General Article because of the 23 length of the sentence.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023, contingent on the taking effect of Section 4 of Chapter 26 of the Acts of the General Assembly of 2022, and if Section 4 of Chapter 26 does not become effective, this Act, with no further action required by the General Assembly, shall be null and void.