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THE SENATE OF MARYLAND
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**Testimony in Support of SB 406 - Criminal Law – Drug Trafficking Crime –
Definition**

Mr. Chair, Mr. Vice Chair, and Members of the Committee:

SB 406 addresses a narrow but significant gap in Maryland’s criminal law that emerged following changes to how cannabis offenses are classified.

Under § 5-621 of the Criminal Law Article, Maryland imposes enhanced penalties when a person possesses or uses a firearm during and in relation to a drug trafficking crime. The purpose of that statute is straightforward: drug trafficking involving firearms presents a heightened risk of violence and danger to the public.

Historically, “drug trafficking crime” was defined as a drug felony, which included possession with intent to distribute and manufacture cannabis for sale. However, following changes enacted in 2023, certain cannabis trafficking offenses—specifically possession with intent to distribute cannabis and cultivating or manufacturing cannabis for sale—were reclassified as misdemeanors.

As a result, a gap has been created in the firearm statute.

Background

Today, if an individual is found with a dealer quantity of cannabis and a firearm—whether during a traffic stop or in the execution of a search warrant—that individual may now face only misdemeanor charges, even when the circumstances clearly reflect drug trafficking activity involving a firearm.

By contrast, if the same conduct involved another controlled dangerous substance, the firearm enhancement under § 5-621 would apply.

The practical effect is that selling cannabis while armed is treated as less dangerous under the statute than selling other drugs while armed, even though the presence of a

firearm in drug trafficking activity presents the same public safety risks regardless of the substance involved.

SB 406 restores consistency to Maryland law by addressing this unintended consequence.

Existing Law

Section 5-621 of the Criminal Law Article prohibits possessing, using, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime and imposes enhanced felony penalties for that conduct.

Because the statute defines “drug trafficking crime” by reference to drug felonies, cannabis offenses that were reclassified as misdemeanors in 2023 are no longer included—despite the fact that the underlying conduct may still involve trafficking activity and firearms.

What SB 406 Does

SB 406 updates the definition of “drug trafficking crime” in § 5-621 to include specified misdemeanor cannabis trafficking offenses, when committed in connection with a firearm.

Specifically, the bill includes:

- Possession with intent to distribute cannabis; and
- Cultivating or growing cannabis for sale

when those offenses occur during and in relation to the possession or use of a firearm.

The bill does not recriminalize cannabis, does not change the classification of the underlying cannabis offenses, and does not create new firearm penalties. It simply ensures that existing firearm enhancements apply consistently when drug trafficking activity—of any kind—is conducted with a firearm.

Public Safety Rationale

The sale of drugs while armed presents an inherent risk of violence. That risk does not disappear because the substance involved is cannabis rather than another controlled dangerous substance.

SB 406 reflects the principle that drug trafficking with a firearm is dangerous conduct, regardless of the drug involved, and that Maryland law should treat it consistently.

Fiscal Impact

The fiscal and policy note reflects only a minimal impact associated with the expanded application of existing penalties. No new programs are created, and no new categories of offenses are added.

Closing

SB 406 is a technical, targeted correction to Maryland law. It closes a loophole created by prior statutory changes and restores consistent treatment of firearm-related drug trafficking offenses, without altering Maryland's broader cannabis policy.

For these reasons, I respectfully request a favorable report on SB 406.