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DATE: February 9, 2026
BILL NUMBER: SB 406
POSITION: Favorable

The Maryland State's Attorneys' Association (MSAA) supports Senate Bill 406 and urges this Committee to issue a favorable report.

MD. CODE ANN., CRIM. LAW ("CL") § 5-621 criminalizes the use of a firearm in a drug trafficking crime. The policy reasons for criminalizing this behavior in addition to the drug trafficking crime itself are sound and well-grounded: the presence of a firearm in a drug deal dramatically escalates both the probability of violence and the lethality of violence should it occur. This conduct is particularly harmful to communities – a not insignificant percentage of gun violence is at least tangentially related to drugs, and it's tearing Maryland's most vulnerable neighborhoods apart.¹

After the possession and recreational use of cannabis in certain amounts became lawful under Maryland law, cannabis offenses that used to be felonies became misdemeanors. While this change makes sense, one unintended consequence was to render individuals who engage in drug trafficking offenses involving cannabis while using guns ineligible for prosecution under CL § 5-621. This means that an individual illegally distributing cocaine while using a gun is subject to this offense, but an individual illegally distributing cannabis while using a gun is not, despite the threat posed by the firearm being exactly the same. SB 406 remedies this issue, restoring the ability to prosecute those that would engage in a drug trafficking crime involving cannabis while using a firearm, without increasing the penalties for the cannabis-related drug trafficking crime at all. SB 406 is a narrowly targeted bill that closes a loophole that currently allows some drug dealers to escape criminal liability for using a firearm, and restores an important tool to help Maryland's prosecutors build safer communities.

¹ See, e.g., Nicole J. Johnson & Caterina G. Roman, *Community correlates of change: A mixed-effects assessment of shooting dynamics during COVID-19*, PLOS ONE 17(2): e0263777 (2022), available at <https://scholarshare.temple.edu/items/c9b87980-3097-4439-88fc-d3eb81cae52b>