

SENATE BILL 420

E1

(11r0764)

ENROLLED BILL

— Judicial Proceedings/Judiciary —

Introduced by **Senator Carter**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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; ~~repealing the prohibition~~
8 against a person delivering or selling, or manufacturing or possessing with intent to
9 deliver or sell drug paraphernalia under certain circumstances; altering a
10 prohibition against a person possessing or distributing controlled paraphernalia
11 under circumstances which reasonably indicate an intention to use the controlled
12 paraphernalia for certain purposes; altering a list of certain items that indicate
13 intent to use certain controlled paraphernalia for certain purposes; altering penalties
14 for a violation of certain provisions relating to drug paraphernalia; altering a certain
15 definition; and generally relating to drug paraphernalia.

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.

Italics indicate opposite chamber/conference committee amendments.



1 BY repealing and reenacting, with amendments,
2 Article – Criminal Law
3 Section 5–101(h), 5–619(c) and (d), and 5–620(a), (b), and (d)
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2020 Supplement)

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

8 **Article – Criminal Law**

9 5–101.

10 (h) “Controlled paraphernalia” means:

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

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

15 [(3)] (2) lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine
16 hydrochloride, or any other substance suitable as a diluent or adulterant.

17 5–619.

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

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

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

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

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

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

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

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

6 (d) (1) Unless authorized under this title, a person may not deliver or sell, or
7 manufacture or possess with intent to deliver or sell, drug paraphernalia, knowing, or
8 under circumstances where one reasonably should know, that the drug paraphernalia will
9 be used to ~~it~~:

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

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

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

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

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

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

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

27 5-620.

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

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

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

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

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

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

4 (v) making or issuing a false or counterfeit prescription or written
5 order; or

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

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

15 (1) a scale;

16 (2) a sieve;

17 (3) a strainer;

18 (4) [a measuring spoon;

19 (5)] staples;

20 [(6)] (5) a stapler;

21 [(7)] (6) a glassine envelope;

22 [(8)] (7) a gelatin capsule;

23 [(9)] (8) procaine hydrochloride;

24 [(10)] (9) mannitol;

25 [(11)] (10) lactose;

26 [(12)] (11) quinine; and

27 [(13)] (12) a controlled dangerous substance.

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

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

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.