

SENATE BILL 509

E1
SB 420/21 – JPR

2lr2046
CF HB 481

By: **Senator Carter**

Introduced and read first time: January 28, 2022

Assigned to: Judicial Proceedings

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

23 (2)] a gelatin capsule, glassine envelope, or other container suitable for

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 packaging individual quantities of a controlled dangerous substance; or

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

4 5–619.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 5–620.

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

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

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

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

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

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

19 (v) making or issuing a false or counterfeit prescription or written
20 order; or

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

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

30 (1) a scale;

31 (2) a sieve;

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

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

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

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