

HOUSE BILL 173

E1
HB 481/22 – JUD

3lr1037
CF SB 762

By: **Delegates Moon, Cardin, Conaway, Feldmark, Ivey, Lopez, Love, Palakovich Carr, Ruth, Solomon, Stewart, Terrasa, and Wilkins**

Introduced and read first time: January 18, 2023

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: February 25, 2023

CHAPTER _____

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, delivering or selling under certain circumstances, or manufacturing or
5 possessing with intent to deliver or sell under certain circumstances drug
6 paraphernalia to inject, ingest, inhale, or otherwise introduce into the human body
7 a controlled dangerous substance; altering a prohibition against a person possessing
8 or distributing controlled paraphernalia under circumstances that reasonably
9 indicate an intention to use the controlled paraphernalia for certain purposes;
10 altering a list of certain items that indicate intent to use certain controlled
11 paraphernalia for certain purposes; and generally relating to drug paraphernalia.

12 BY repealing and reenacting, without amendments,
13 Article – Criminal Law
14 Section 5–101(a)
15 Annotated Code of Maryland
16 (2021 Replacement Volume and 2022 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Criminal Law
19 Section 5–101(h), 5–619(c) and (d), and 5–620(a), (b), and (d)
20 Annotated Code of Maryland
21 (2021 Replacement Volume and 2022 Supplement)

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.



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

3 **Article – Criminal Law**

4 5–101.

5 (a) In this title the following words have the meanings indicated.

6 (h) “Controlled paraphernalia” means:

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

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

11 [(3)] (2) lactose, quinine, mannite, mannitol, dextrose, sucrose, procaine
12 hydrochloride, or any other substance suitable as a diluent or adulterant.

13 5–619.

14 (c) (1) Unless authorized under this title, a person may not use or possess with
15 intent to use drug paraphernalia to[

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

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

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

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

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

26 (3) A person who is convicted of violating this subsection for the first time
27 and who previously has been convicted of violating subsection (d)(4) of this section is subject
28 to the penalty specified under paragraph (2)(ii) of this subsection.

29 (d) (1) Unless authorized under this title, a person may not deliver or sell, or
30 manufacture or possess with intent to deliver or sell, drug paraphernalia, knowing, or

1 under circumstances where one reasonably should know, that the drug paraphernalia will
2 be used to[:

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

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

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

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

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

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

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

20 5–620.

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

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

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

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

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

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

28 (v) making or issuing a false or counterfeit prescription or written
29 order; or

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

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

- 10 (1) a scale;
- 11 (2) a sieve;
- 12 (3) a strainer;
- 13 (4) [a measuring spoon;
- 14 (5)] staples;
- 15 [(6)] (5) a stapler;
- 16 [(7)] (6) a glassine envelope;
- 17 [(8)] (7) a gelatin capsule;
- 18 [(9)] (8) procaine hydrochloride;
- 19 [(10)] (9) mannitol;
- 20 [(11)] (10) lactose;
- 21 [(12)] (11) quinine; and
- 22 [(13)] (12) a controlled dangerous substance.

23 (d) A person who violates this section is guilty of a misdemeanor and on conviction
24 is subject to imprisonment not exceeding [4 years] **1 YEAR** or a fine not exceeding [\$25,000]
25 **\$1,000** or both.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2023.