

HOUSE BILL 135

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3lr0475
CF SB 946

By: **Delegates Moon and Williams**

Introduced and read first time: January 13, 2023

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2023

CHAPTER _____

1 AN ACT concerning

2 ~~Controlled Dangerous Substances – Volume Dealers and Drug Kingpins~~
3 ~~Cannabis~~
4 Criminal Law – Controlled Dangerous Substances and Firearms

5 FOR the purpose of specifying that manufacturing, distributing, dispensing, or possessing
6 certain large quantities of certain controlled dangerous substances is a felony;
7 altering the penalties for being a volume dealer and drug kingpin with regard to
8 cannabis; authorizing a certain person serving a certain term of confinement for an
9 offense relating to volume dealing in cocaine base or cannabis or drug kingpin with
10 regard to cocaine base or cannabis imposed on or before a certain date to file a certain
11 motion to modify or reduce the sentence under certain circumstances; altering the
12 penalties for certain crimes relating to firearms; authorizing a person at least a
13 certain age to manufacture a personal use amount of cannabis products or
14 concentrated cannabis for personal use or adult sharing at a private residence if the
15 manufacturing process does not involve the use of a volatile solvent; and generally
16 relating to ~~volume dealers and drug kingpins~~ controlled dangerous substances and
17 firearms.

18 BY repealing and reenacting, without amendments,

19 Article – Criminal Law

20 Section 5–101(a) and (u) and 5–602

21 Annotated Code of Maryland

22 (2021 Replacement Volume and 2022 Supplement)

23 (As enacted by Chapter 26 of the Acts of the General Assembly of 2022)

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 BY repealing and reenacting, with amendments,
2 Article – Criminal Law
3 Section ~~5–612 and 5–613~~ 5–603, 5–612, and 5–613
4 Annotated Code of Maryland
5 (2021 Replacement Volume and 2022 Supplement)

6 BY adding to
7 Article – Criminal Law
8 Section 5–612.1 and 5–613.1
9 Annotated Code of Maryland
10 (2021 Replacement Volume and 2022 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Public Safety
13 Section 5–138, 5–406, and 5–703
14 Annotated Code of Maryland
15 (2022 Replacement Volume)

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 5–612.

20 (a) A person may not manufacture, distribute, dispense, or possess:

21 (1) 50 pounds or more of cannabis;

22 (2) 448 grams or more of cocaine;

23 (3) 448 grams or more of any mixture containing a detectable amount, as
24 scientifically measured using representative sampling methodology, of cocaine;

25 (4) 448 grams or more of cocaine base, commonly known as “crack”;

26 (5) 28 grams or more of morphine or opium or any derivative, salt, isomer,
27 or salt of an isomer of morphine or opium;

28 (6) 28 grams or more of any mixture containing a detectable amount, as
29 scientifically measured using representative sampling methodology, of morphine or opium
30 or any derivative, salt, isomer, or salt of an isomer of morphine or opium;

31 (7) 5 grams or more of fentanyl or any structural variation of fentanyl that
32 is scheduled by the United States Drug Enforcement Administration;

1 (8) 28 grams or more of any mixture containing a detectable amount, as
2 scientifically measured using representative sampling methodology, of fentanyl or any
3 structural variation of fentanyl that is scheduled by the United States Drug Enforcement
4 Administration;

5 (9) 1,000 dosage units or more of lysergic acid diethylamide;

6 (10) any mixture containing the equivalent of 1,000 dosage units of lysergic
7 acid diethylamide;

8 (11) 16 ounces or more of phencyclidine in liquid form;

9 (12) 448 grams or more of any mixture containing a detectable amount, as
10 scientifically measured using representative sampling methodology, of phencyclidine;

11 (13) 448 grams or more of methamphetamine; or

12 (14) 448 grams or more of any mixture containing a detectable amount, as
13 scientifically measured using representative sampling methodology, of methamphetamine.

14 (b) For the purpose of determining the quantity of a controlled dangerous
15 substance involved in individual acts of manufacturing, distributing, dispensing, or
16 possessing under subsection (a) of this section, the acts may be aggregated if each of the
17 acts occurred within a 90-day period.

18 (c) (1) (I) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
19 SUBSECTION, A person who [is convicted of a violation of] VIOLATES subsection (a) of this
20 section IS GUILTY OF A FELONY AND ON CONVICTION shall be sentenced to
21 imprisonment for not less than 5 years and is subject to a fine not exceeding \$100,000.

22 [(2)] (II) The court may not suspend any part of the mandatory minimum
23 sentence of 5 years.

24 [(3)] (III) Except as provided in § 4-305 of the Correctional Services
25 Article, the person is not eligible for parole during the mandatory minimum sentence.

26 (2) A PERSON WHO VIOLATES SUBSECTION (A)(1) OF THIS SECTION IS
27 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT
28 NOT EXCEEDING ~~5~~ 10 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.

29 5-612.1.

30 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO
31 SUBSECTION (C) OF THIS SECTION, A PERSON WHO IS SERVING A TERM OF
32 CONFINEMENT THAT INCLUDES A MANDATORY MINIMUM SENTENCE IMPOSED ON OR
33 BEFORE SEPTEMBER 30, 2017, FOR A VIOLATION OF § 5-612 OR § 5-613 OF THIS

1 SUBTITLE INVOLVING LESS THAN 448 GRAMS OF COCAINE BASE MAY APPLY TO THE
2 COURT TO MODIFY OR REDUCE THE MANDATORY MINIMUM SENTENCE AS PROVIDED
3 IN MARYLAND RULE 4-345, REGARDLESS OF WHETHER THE DEFENDANT FILED A
4 TIMELY MOTION FOR RECONSIDERATION OR A MOTION FOR RECONSIDERATION WAS
5 DENIED BY THE COURT.

6 (B) THE COURT MAY MODIFY THE SENTENCE AND DEPART FROM THE
7 MANDATORY MINIMUM SENTENCE UNLESS THE STATE SHOWS THAT, GIVING DUE
8 REGARD TO THE NATURE OF THE CRIME, THE HISTORY AND CHARACTER OF THE
9 DEFENDANT, AND THE DEFENDANT'S CHANCES OF SUCCESSFUL REHABILITATION:

10 (1) RETENTION OF THE MANDATORY MINIMUM SENTENCE WOULD
11 NOT RESULT IN SUBSTANTIAL INJUSTICE TO THE DEFENDANT; AND

12 (2) THE MANDATORY MINIMUM SENTENCE IS NECESSARY FOR THE
13 PROTECTION OF THE PUBLIC.

14 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
15 AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION SHALL BE FILED WITH
16 THE COURT OR REVIEW PANEL ON OR BEFORE SEPTEMBER 30, 2024.

17 (2) THE COURT MAY CONSIDER AN APPLICATION FILED AFTER
18 SEPTEMBER 30, 2024, ONLY FOR GOOD CAUSE SHOWN.

19 (3) THE COURT SHALL NOTIFY THE STATE'S ATTORNEY OF THE
20 FILING OF AN APPLICATION.

21 (4) A PERSON MAY NOT FILE MORE THAN ONE APPLICATION UNDER
22 SUBSECTION (A) OF THIS SECTION FOR A MANDATORY MINIMUM SENTENCE FOR A
23 VIOLATION OF § 5-612 OF THIS SUBTITLE INVOLVING LESS THAN 448 GRAMS OF
24 COCAINE BASE.

25 (5) THE COURT SHALL HOLD A HEARING ON AN APPLICATION FILED
26 UNDER SUBSECTION (A) OF THIS SECTION.

27 5-613.

28 (a) In this section, "drug kingpin" means an organizer, supervisor, financier, or
29 manager who acts as a coconspirator in a conspiracy to manufacture, distribute, dispense,
30 transport in, or bring into the State a controlled dangerous substance.

31 (b) (1) (I) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
32 SUBSECTION, A drug kingpin who conspires to manufacture, distribute, dispense,
33 transport in, or bring into the State a controlled dangerous substance in an amount listed
34 in § 5-612 of this subtitle is guilty of a felony and on conviction is subject to imprisonment

1 for not less than 20 years and not exceeding 40 years without the possibility of parole or a
2 fine not exceeding \$1,000,000 or both.

3 [(2)] (II) A court may not suspend any part of the mandatory minimum
4 sentence of 20 years.

5 [(3)] (III) The person is not eligible for parole during the mandatory
6 minimum sentence.

7 (2) A DRUG KINGPIN WHO CONSPIRES TO MANUFACTURE,
8 DISTRIBUTE, DISPENSE, TRANSPORT IN, OR BRING INTO THE STATE CANNABIS IN AN
9 AMOUNT LISTED IN § 5-612(A)(1) OF THIS SUBTITLE IS GUILTY OF A FELONY AND ON
10 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~10~~ 20 YEARS OR A FINE
11 NOT EXCEEDING \$100,000 OR BOTH.

12 (c) It is not a defense to a prosecution under this section that the controlled
13 dangerous substance was brought into or transported in the State solely for ultimate
14 distribution or dispensing in another jurisdiction.

15 (d) Notwithstanding any other provision of this title, a conviction under this
16 section does not merge with the conviction for any crime that is the object of the conspiracy.

17 (e) The provisions of § 6-220 of the Criminal Procedure Article do not apply to a
18 conviction under this section.

19 (f) This section does not:

20 (1) prohibit a court from imposing an enhanced penalty under § 5-905 of
21 this title; or

22 (2) preclude or limit a prosecution for any other crime.

23 **5-613.1.**

24 (A) **NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO**
25 **SUBSECTION (C) OF THIS SECTION, A PERSON WHO IS SERVING A TERM OF**
26 **CONFINEMENT THAT INCLUDES A MANDATORY MINIMUM SENTENCE IMPOSED ON OR**
27 **BEFORE SEPTEMBER 30, 2023, FOR A VIOLATION OF § 5-612 OR § 5-613 OF THIS**
28 **SUBTITLE INVOLVING CANNABIS MAY APPLY TO THE COURT TO MODIFY OR REDUCE**
29 **THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN MARYLAND RULE 4-345,**
30 **REGARDLESS OF WHETHER THE DEFENDANT FILED A TIMELY MOTION FOR**
31 **RECONSIDERATION OR A MOTION FOR RECONSIDERATION WAS DENIED BY THE**
32 **COURT.**

1 **(B) THE COURT MAY MODIFY THE SENTENCE AND DEPART FROM THE**
2 **MANDATORY MINIMUM SENTENCE UNLESS THE STATE SHOWS THAT, GIVING DUE**
3 **REGARD TO THE NATURE OF THE CRIME, THE HISTORY AND CHARACTER OF THE**
4 **DEFENDANT, AND THE DEFENDANT’S CHANCES OF SUCCESSFUL REHABILITATION:**

5 **(1) RETENTION OF THE MANDATORY MINIMUM SENTENCE WOULD**
6 **NOT RESULT IN SUBSTANTIAL INJUSTICE TO THE DEFENDANT; AND**

7 **(2) THE MANDATORY MINIMUM SENTENCE IS NECESSARY FOR THE**
8 **PROTECTION OF THE PUBLIC.**

9 **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
10 **AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION SHALL BE FILED WITH**
11 **THE COURT OR REVIEW PANEL ON OR BEFORE SEPTEMBER 30, 2024.**

12 **(2) THE COURT MAY CONSIDER AN APPLICATION FILED AFTER**
13 **SEPTEMBER 30, 2024, ONLY FOR GOOD CAUSE SHOWN.**

14 **(3) THE COURT SHALL NOTIFY THE STATE’S ATTORNEY OF THE**
15 **FILING OF AN APPLICATION.**

16 **(4) THE COURT SHALL HOLD A HEARING ON AN APPLICATION FILED**
17 **UNDER SUBSECTION (A) OF THIS SECTION.**

18 **(5) IF THE COURT DENIES THE MOTION, THE PERSON MAY FILE ONE**
19 **SUBSEQUENT MOTION UNDER THIS SECTION NO EARLIER THAN 3 YEARS AFTER THE**
20 **DENIAL OF THE FIRST MOTION.**

21 **Article – Public Safety**

22 **5–138.**

23 **(A) A person may not possess, sell, transfer, or otherwise dispose of a stolen**
24 **regulated firearm if the person knows or has reasonable cause to believe that the regulated**
25 **firearm has been stolen.**

26 **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND**
27 **ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE**
28 **NOT EXCEEDING \$10,000 OR BOTH.**

29 **(C) EACH VIOLATION OF THIS SECTION IS A SEPARATE CRIME.**

30 **5–406.**

1 (a) (1) Except as provided in § 5–402 of this subtitle, a person may not
2 manufacture for distribution or sale a handgun that is not included on the handgun roster
3 in the State.

4 (2) A person may not sell or offer for sale in the State a handgun
5 manufactured after January 1, 1985, that is not included on the handgun roster.

6 (3) A person may not manufacture, sell, or offer for sale a handgun on
7 which the manufacturer’s identification mark or number is obliterated, removed, changed,
8 or otherwise altered.

9 (b) The Secretary may seek an order from a circuit court to permanently or
10 temporarily enjoin the willful and continuous manufacture, sale, or offer for sale, in
11 violation of this section, of a handgun that is not included on the handgun roster.

12 (c) (1) A person who manufactures a handgun for distribution or sale in
13 violation of this section is guilty of a [misdemeanor] **FELONY** and on conviction is subject
14 to **IMPRISONMENT NOT EXCEEDING 5 YEARS OR** a fine not exceeding \$10,000 **OR BOTH**
15 for each violation.

16 (2) A person who sells or offers to sell a handgun in violation of this section
17 is guilty of a [misdemeanor] **FELONY** and on conviction is subject to **IMPRISONMENT NOT**
18 **EXCEEDING 5 YEARS OR** a fine not exceeding \$2,500 **OR BOTH** for each violation.

19 (3) For purposes of this subsection, each handgun manufactured, sold, or
20 offered for sale in violation of this [subsection] **SECTION** is a separate violation.

21 5–703.

22 (a) (1) A person may not purchase, receive, sell, offer to sell, or transfer an
23 unfinished frame or receiver unless it is required by federal law to be, and has been,
24 imprinted with a serial number by a federally licensed firearms manufacturer or federally
25 licensed firearms importer in compliance with all federal laws and regulations applicable
26 to the manufacture and import of firearms.

27 (2) Except as provided in paragraph (1) of this subsection, a person may
28 not sell, offer to sell, or transfer a firearm unless it is imprinted with a serial number as
29 described under subsection (b) of this section.

30 (b) (1) This subsection does not apply to:

31 (i) possession of a firearm unless a person knew or reasonably
32 should have known that the firearm was not imprinted with a serial number as described
33 under this subsection;

34 (ii) possession of a firearm that does not comply with the marking
35 requirements described under this subsection by a person who received the firearm through

1 inheritance, and is not otherwise prohibited from possessing the firearm, for a period not
2 exceeding 30 days after inheriting the firearm; or

3 (iii) possession of an unfinished frame or receiver by a person that
4 made or manufactured the unfinished frame or receiver, without the use of any
5 prefabricated parts, and who is not otherwise prohibited from possessing the unfinished
6 frame or receiver, for a period not exceeding 30 days after the person made or manufactured
7 the unfinished frame or receiver.

8 (2) On or after March 1, 2023, a person may not possess a firearm unless:

9 (i) the firearm is required by federal law to be, and has been,
10 imprinted by a federally licensed firearms manufacturer, federally licensed firearms
11 importer, or other federal licensee authorized to provide marking services, with a serial
12 number in compliance with all federal laws and regulations applicable to the manufacture
13 and import of firearms; or

14 (ii) the firearm:

15 1. has been imprinted by a federally licensed firearms dealer,
16 federal firearms manufacturer, or other federal licensee authorized to provide marking
17 services, with:

18 A. the zip code of the current owner or person that made,
19 completed, or initially assembled the firearm;

20 B. the initials of the current owner or person that made,
21 completed, or initially assembled the firearm; and

22 C. a number that does not match a number used by the
23 current owner on another firearm or by the person who made, completed, or initially
24 assembled the firearm on any other firearm that the person has made, completed, or
25 initially assembled; and

26 2. has been registered with the Secretary.

27 (c) (1) A person who violates subsection (a) of this section is guilty of a
28 [misdemeanor] FELONY and ON CONVICTION IS subject to imprisonment not exceeding 5
29 years or a fine not exceeding \$10,000 or both.

30 (2) A person who violates subsection (b) of this section is guilty of a
31 misdemeanor and ON CONVICTION IS subject to imprisonment not exceeding 2 years or a
32 fine not exceeding \$10,000 or both.

33 (3) Each violation of this section is a separate crime.

1 (d) A federally licensed firearms dealer or other federal licensee authorized to
2 provide marking services who imprints a firearm under subsection (b)(2)(ii) of this section
3 shall imprint the firearm in compliance with all federal laws and regulations applicable to
4 affixing serial numbers to firearms, including:

5 (1) minimum size and depth requirements; and

6 (2) requirements that the numbers not be readily susceptible to being
7 obliterated, altered, or removed.

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
9 as follows:

10 Article – Criminal Law

11 5–101.

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

13 (u) “Personal use amount” means:

14 (1) an amount of usable cannabis that does not exceed 1.5 ounces;

15 (2) an amount of concentrated cannabis that does not exceed 12 grams;

16 (3) an amount of cannabis products containing
17 delta–9–tetrahydrocannabinol that does not exceed 750 milligrams; or

18 (4) two or fewer cannabis plants.

19 5–602.

20 (a) Except as otherwise provided in this title, a person may not:

21 (1) distribute or dispense a controlled dangerous substance; or

22 (2) possess a controlled dangerous substance other than cannabis in
23 sufficient quantity reasonably to indicate under all circumstances an intent to distribute or
24 dispense a controlled dangerous substance.

25 (b) (1) Except as otherwise provided in this title, a person may not possess
26 cannabis in sufficient quantity reasonably to indicate under all circumstances an intent to
27 distribute or dispense cannabis.

28 (2) Possession of the civil use amount of cannabis or the personal use
29 amount of cannabis without other evidence of an intent to distribute or dispense does not
30 constitute a violation of paragraph (1) of this subsection.

1 (c) (1) (i) In this subsection, “adult sharing” means transferring cannabis
2 between persons who are 21 years of age or older without remuneration.

3 (ii) “Adult sharing” does not include instances in which:

4 1. cannabis is given away contemporaneously with another
5 reciprocal transaction between the same parties;

6 2. a gift of cannabis is offered or advertised in conjunction
7 with an offer for the sale of goods or services; or

8 3. a gift of cannabis is contingent on a separate reciprocal
9 transaction for goods or services.

10 (2) This section does not prohibit, and no civil or criminal penalty may be
11 imposed for, adult sharing of the personal use amount of cannabis.

12 5-603.

13 (a) Except as otherwise provided in this title, a person may not manufacture a
14 controlled dangerous substance other than cannabis, or manufacture, distribute, or possess
15 a machine, equipment, instrument, implement, device, or a combination of them that is
16 adapted to produce a controlled dangerous substance other than cannabis under
17 circumstances that reasonably indicate an intent to use it to produce, sell, or dispense a
18 controlled dangerous substance other than cannabis in violation of this title.

19 (b) Except as otherwise provided in this title, a person may not cultivate or grow
20 cannabis or manufacture a cannabis product, or manufacture, distribute, or possess a
21 machine, equipment, an instrument, an implement, a device, or a combination of them that
22 is adapted to produce cannabis or a cannabis product under circumstances that reasonably
23 indicate an intent to use it to produce, sell, or dispense cannabis or a cannabis product in
24 violation of this title.

25 (C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
26 MEANINGS INDICATED.

27 (II) “ADULT SHARING” HAS THE MEANING STATED IN §
28 5-602(C)(1) OF THIS SUBTITLE.

29 (III) 1. “VOLATILE SOLVENT” MEANS A SOLVENT THAT IS OR
30 PRODUCES A FLAMMABLE GAS OR VAPOR THAT, WHEN PRESENT IN THE AIR IN
31 SUFFICIENT QUANTITIES, WILL CREATE EXPLOSIVE OR IGNITABLE MIXTURES.

32 2. “VOLATILE SOLVENT” INCLUDES BUTANE, HEXANE,
33 AND PROPANE.

1 **(2) A PERSON WHO IS AT LEAST 21 YEARS OLD MAY MANUFACTURE A**
2 **PERSONAL USE AMOUNT OF CANNABIS PRODUCTS OR CONCENTRATED CANNABIS**
3 **FOR PERSONAL USE OR ADULT SHARING AT A PRIVATE RESIDENCE IF THE**
4 **MANUFACTURING PROCESS DOES NOT INVOLVE THE USE OF A VOLATILE SOLVENT.**

5 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
6 effect October 1, 2023, contingent on the taking effect of Section 4 of Chapter 26 of the Acts
7 of the General Assembly of 2022, and if Section 4 of Chapter 26 does not take effect, Section
8 2 of this Act, with no further action required by the General Assembly, shall be null and
9 void.

10 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, except as provided in
11 Section 3 of this Act, this Act shall take effect October 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.