HOUSE BILL 413

E1, A3 5lr0723
HB 346/24 – JUD

By: **Delegates Moon and Clippinger**
Introduced and read first time: January 16, 2025
Assigned to: Judiciary

A BILL ENTITLED

AN ACT concerning

Criminal Law – Controlled Dangerous Substances and Firearms

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

BY repealing and reenacting, without amendments,
Article – Criminal Law
Section 5–101(a) and (u) and 5–602
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 5–603, 5–612, and 5–613
Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

BY adding to
Article – Criminal Law
Section 5–612.1 and 5–613.1
Annotated Code of Maryland

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

(2021 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 5–138, 5–140, 5–406, and 5–703
Annotated Code of Maryland
(2022 Replacement Volume and 2024 Supplement)

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

Article – Criminal Law

5–101.

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

(u) "Personal use amount" means:

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

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

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

(4) two or fewer cannabis plants.

5–602.

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

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

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

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

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

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

(ii) "Adult sharing" does not include instances in which:

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

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

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

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

5–603.

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

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

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

(II) "ADULT SHARING" HAS THE MEANING STATED IN § 5–602(C)(1) OF THIS SUBTITLE.

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

2. "VOLATILE SOLVENT" INCLUDES BUTANE, HEXANE, AND PROPANE.

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

5–612.

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

(1) 50 pounds or more of cannabis;

(2) 448 grams or more of cocaine;

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

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

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

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

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

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

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

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

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

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

(13) 448 grams or more of methamphetamine; or

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

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

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

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

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

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

5–612.1.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON WHO IS SERVING A TERM OF CONFINEMENT THAT INCLUDES A MANDATORY MINIMUM SENTENCE IMPOSED ON OR BEFORE SEPTEMBER 30, 2017, FOR A VIOLATION OF § 5–612 OR § 5–613 OF THIS SUBTITLE INVOLVING LESS THAN 448 GRAMS OF COCAINE BASE MAY APPLY TO THE COURT TO MODIFY OR REDUCE THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN MARYLAND RULE 4–345, REGARDLESS OF WHETHER THE DEFENDANT FILED A TIMELY MOTION FOR RECONSIDERATION OR A MOTION FOR RECONSIDERATION WAS DENIED BY THE COURT.

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

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

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

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION SHALL BE FILED WITH THE COURT OR REVIEW PANEL ON OR BEFORE SEPTEMBER 30, 2026.

(2) THE COURT MAY CONSIDER AN APPLICATION FILED AFTER SEPTEMBER 30, 2026, ONLY FOR GOOD CAUSE SHOWN.

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

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

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

5–613.

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

(b) (1) **(I) [**A**] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A** drug kingpin who conspires to manufacture, distribute, dispense, transport in, or bring into the State a controlled dangerous substance in an amount listed in § 5–612 of this subtitle is guilty of a felony and on conviction is subject to imprisonment for not less than 20 years and not exceeding 40 years without the possibility of parole or a fine not exceeding $1,000,000 or both.

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

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

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

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

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

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

(f) This section does not:

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

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

5–613.1.

(A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW AND SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PERSON WHO IS SERVING A TERM OF CONFINEMENT THAT INCLUDES A MANDATORY MINIMUM SENTENCE IMPOSED ON OR BEFORE SEPTEMBER 30, 2025, FOR A VIOLATION OF § 5–612 OR § 5–613 OF THIS SUBTITLE INVOLVING CANNABIS MAY APPLY TO THE COURT TO MODIFY OR REDUCE THE MANDATORY MINIMUM SENTENCE AS PROVIDED IN MARYLAND RULE 4–345, REGARDLESS OF WHETHER THE DEFENDANT FILED A TIMELY MOTION FOR RECONSIDERATION OR A MOTION FOR RECONSIDERATION WAS DENIED BY THE COURT.

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

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

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

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION SHALL BE FILED WITH THE COURT OR REVIEW PANEL ON OR BEFORE SEPTEMBER 30, 2026.

(2) THE COURT MAY CONSIDER AN APPLICATION FILED AFTER SEPTEMBER 30, 2026, ONLY FOR GOOD CAUSE SHOWN.

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

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

(5) IF THE COURT DENIES THE MOTION, THE PERSON MAY FILE ONE SUBSEQUENT MOTION UNDER THIS SECTION NOT EARLIER THAN 3 YEARS AFTER THE DENIAL OF THE FIRST MOTION.

Article – Public Safety

5–138.

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

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

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

5–140.

(a) A dealer or other person may not transport a regulated firearm into the State for the purpose of unlawfully selling or trafficking of the regulated firearm.

(b) A person who violates this section is guilty of a **[**misdemeanor**]** **FELONY** and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding $25,000 or both.

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

5–406.

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

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

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

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

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

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

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

5–703.

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

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

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

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

(ii) possession of a firearm that does not comply with the marking requirements described under this subsection by a person who received the firearm through inheritance, and is not otherwise prohibited from possessing the firearm, for a period not exceeding 30 days after inheriting the firearm; or

(iii) possession of an unfinished frame or receiver by a person that made or manufactured the unfinished frame or receiver, without the use of any prefabricated parts, and who is not otherwise prohibited from possessing the unfinished

frame or receiver, for a period not exceeding 30 days after the person made or manufactured the unfinished frame or receiver.

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

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

(ii) the firearm:

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

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

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

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

2. has been registered with the Secretary.

(c) (1) A person who violates subsection (a) of this section is guilty of a **[**misdemeanor**]** **FELONY** and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding $10,000 or both.

(2) A person who violates subsection (b) of this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding $10,000 or both.

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

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

(1) minimum size and depth requirements; and

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2025.