

**A010-0405**

10 **AN ACT CONCERNING**  
20 **THE COMPASSIONATE USE OF MARIJUANA**

30 FOR the purpose of allowing certain individuals in certain marijuana prosecutions to introduce,  
40 and requiring the court to consider as a mitigating factor, certain evidence related to medical  
50 necessity under certain circumstances; establishing certain penalties under certain circumstances;  
60 making the provisions of this Act severable; and generally relating to evidence of certain medical  
70 necessity in marijuana-related prosecutions.

80 BY repealing and reenacting, with amendments,  
90 Article - Criminal Law  
100 Section 5-601(c) and 5-619(c)  
110 Annotated Code of Maryland  
120 (2002 Volume)

130 SECTION 1. BE IT ENACTED BY THE MARYLAND STUDENT LEGISLATURE,  
140 That the Laws of Maryland read as follows:

150 **Article - Criminal Law**

160 § 5-601.

170 (c) (1) Except as provided in [paragraph (2)]PARAGRAPHS (2) AND (3) of this  
180 subsection, a person who violates this section is guilty of a misdemeanor and on  
190 conviction is subject to imprisonment not exceeding 4 years or a fine not exceeding  
200 \$25,000 or both.

210 (2) A person whose violation of this section involves the use or possession of  
220 marijuana is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000  
230 or both.

240 (3) (I) In a prosecution for the use of possession of marijuana, the defendant  
250 may introduce and the court shall consider as a mitigating factor any evidence of  
260 medical necessity.

270 (II) Notwithstanding paragraph (2) of this subsection, if the court finds that the  
280 person used or possessed marijuana because of medical necessity, ~~the maximum penalty~~  
290 ~~that the court may impose on the person is a fine not exceeding \$100~~ THEY SHALL  
300 NOT BE CONVICTED OF THE ACCUSED CRIME.

310 § 5-619.

320 (c) (1) Unless authorized under this title, a person may not use or possess with intent to  
330 use drug paraphernalia to:

340 (i) plant, propagate, cultivate, grow, harvest, manufacture, compound,  
350 convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or  
360 conceal a controlled dangerous substance; or

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

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

- 410 (i) for a first violation, a fine not exceeding \$500; and
- 420 (ii) for each subsequent violation, imprisonment not exceeding 2 years or a  
430 fine not exceeding \$2,000 or both.
- 440 (3) A person who is convicted of violating this subsection for the first time and who  
450 previously has been convicted of violating subsection (d)(4) of this section is subject to  
460 the penalty specified under paragraph (2)(ii) of this subsection.
- 470 (4) (I) In a prosecution under this subsection involving dug paraphernalia  
480 related to marijuana, the defendant may introduce and the court shall consider as  
490 a mitigating factor any evidence of medical necessity.
- 500 (II) Notwithstanding paragraph (2) of this subsection, if the court finds that  
510 the person used or possessed the drug paraphernalia related to marijuana  
520 because of medical necessity, ~~the maximum penalty the court may impose on~~  
530 ~~the person is a fine not exceeding \$100~~ THEY SHALL NOT BE CONVICTED  
540 OF THE ACCUSED CRIME.

550 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the  
560 application thereof to any person or circumstance is held invalid for any reason in a court  
570 of competent jurisdiction, the invalidity does not affect other provisions or any other  
580 application of this Act which can be given effect without the invalid provision or  
590 application, and for this purpose the provisions of this Act are declared severable.

600 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1,  
610 2005.

620 **MANDATES:** Governor Robert Ehrlich  
630 Lieutenant Governor Michael Steele  
640 President of the Senate Thomas V. Mike Miller, Jr.  
650 Speaker of the House Michael Busch

**SPONSOR:**

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**COSPONSORS:**

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