

HOUSE BILL 1043

E1, R5

7lr2276
CF 7lr3564

By: **Delegates Valentino–Smith, B. Wilson, Afzali, Anderton, Atterbeary, Beidle, Carozza, Folden, Ghrist, Jackson, Kipke, Krebs, Lisanti, McMillan, Otto, Parrott, Rose, Shoemaker, Sophocleus, Vallario, and Vogt**

Introduced and read first time: February 8, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Smoking Marijuana in Public and in Vehicles – Prohibition**

3 FOR the purpose of prohibiting a person from smoking marijuana in certain public places
4 subject to a certain exception; providing for the expungement of a conviction for
5 smoking marijuana in a public place; providing that a conviction for smoking
6 marijuana in a public place is a shieldable conviction for a certain purpose;
7 prohibiting a driver of a motor vehicle from smoking or consuming marijuana in the
8 passenger area of a motor vehicle on a highway; prohibiting an occupant of a motor
9 vehicle from smoking marijuana in the passenger area of the motor vehicle on a
10 highway; establishing certain penalties; defining certain terms; and generally
11 relating to smoking marijuana.

12 BY repealing and reenacting, without amendments,
13 Article – Criminal Law
14 Section 5–601(a)
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2016 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Criminal Law
19 Section 5–601(c)(1)
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2016 Supplement)

22 BY repealing
23 Article – Criminal Law
24 Section 5–601(c)(4)
25 Annotated Code of Maryland
26 (2012 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to

Article – Criminal Law

Section 5–601.2

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Procedure

Section 10–105(a) and 10–301(f)

Annotated Code of Maryland

(2008 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, without amendments,

Article – Criminal Procedure

Section 10–301(a)

Annotated Code of Maryland

(2008 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation

Section 21–903

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Criminal Law

5–601.

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

(1) possess or administer to another a controlled dangerous substance, unless obtained directly or by prescription or order from an authorized provider acting in the course of professional practice; or

(2) obtain or attempt to obtain a controlled dangerous substance, or procure or attempt to procure the administration of a controlled dangerous substance by:

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

(ii) the counterfeiting or alteration of a prescription or a written order;

(iii) the concealment of a material fact;

(iv) the use of a false name or address;

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

(vi) making, issuing, or presenting a false or counterfeit prescription or written order.

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

[(4) A violation of this section involving the smoking of marijuana in a public place is a civil offense punishable by a fine not exceeding \$500.]

5-601.2.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "PUBLIC CONVEYANCE" HAS THE MEANING STATED IN § 10-201 OF THIS ARTICLE.

(3) "PUBLIC PLACE" HAS THE MEANING STATED IN § 10-201 OF THIS ARTICLE.

(B) THIS SECTION DOES NOT APPLY TO THE USE OF A VAPORIZER BY A QUALIFYING PATIENT, AS DEFINED IN § 13-3301 OF THE HEALTH - GENERAL ARTICLE.

(C) FOR PURPOSES OF PROSECUTION UNDER THIS SECTION, A PUBLIC PLACE OR PUBLIC CONVEYANCE NEED NOT BE DEVOTED SOLELY TO PUBLIC USE.

(D) A PERSON MAY NOT SMOKE MARIJUANA:

(1) IN A PUBLIC PLACE;

(2) IN OR ON A PUBLIC CONVEYANCE; OR

(3) IN ANY AREA OTHERWISE ACCESSIBLE TO THE PUBLIC, INCLUDING:

(I) AN INDOOR AREA OPEN TO THE PUBLIC;

(II) AN INDOOR PLACE IN WHICH MEETINGS ARE OPEN TO THE PUBLIC;

(III) A GOVERNMENT-OWNED OR GOVERNMENT-OPERATED MEANS OF MASS TRANSPORTATION; OR

(IV) AN INDOOR PLACE OF EMPLOYMENT.

(E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500.

Article – Criminal Procedure

10–105.

(a) A person who has been charged with the commission of a crime, including a violation of the Transportation Article for which a term of imprisonment may be imposed, or who has been charged with a civil offense or infraction, except a juvenile offense, as a substitute for a criminal charge may file a petition listing relevant facts for expungement of a police record, court record, or other record maintained by the State or a political subdivision of the State if:

(1) the person is acquitted;

(2) the charge is otherwise dismissed;

(3) a probation before judgment is entered, unless the person is charged with a violation of § 21–902 of the Transportation Article or Title 2, Subtitle 5 or § 3–211 of the Criminal Law Article;

(4) a nolle prosequi or nolle prosequi with the requirement of drug or alcohol treatment is entered;

(5) the court indefinitely postpones trial of a criminal charge by marking the criminal charge “stet” or stet with the requirement of drug or alcohol abuse treatment on the docket;

(6) the case is compromised under § 3–207 of the Criminal Law Article;

(7) the charge was transferred to the juvenile court under § 4–202 of this article;

(8) the person:

(i) is convicted of only one criminal act, and that act is not a crime of violence; and

(ii) is granted a full and unconditional pardon by the Governor;

(9) the person was convicted of a crime or found not criminally responsible under any State or local law that prohibits:

(i) urination or defecation in a public place;

(ii) panhandling or soliciting money;

(iii) drinking an alcoholic beverage in a public place;

(iv) obstructing the free passage of another in a public place or a public conveyance;

(v) sleeping on or in park structures, such as benches or doorways;

(vi) loitering;

(vii) vagrancy;

(viii) riding a transit vehicle without paying the applicable fare or exhibiting proof of payment; [or]

(ix) except for carrying or possessing an explosive, acid, concealed weapon, or other dangerous article as provided in § 7–705(b)(6) of the Transportation Article, any of the acts specified in § 7–705 of the Transportation Article; **OR**

(X) SMOKING MARIJUANA IN A PUBLIC PLACE;

(10) the person was found not criminally responsible under any State or local law that prohibits misdemeanor:

(i) trespass;

(ii) disturbing the peace; or

(iii) telephone misuse; or

(11) the person was convicted of a crime and the act on which the conviction was based is no longer a crime.

10–301.

(a) In this subtitle the following words have the meaning indicated.

(f) “Shieldable conviction” means a conviction of one of the following crimes:

(1) disorderly conduct under § 10–201(c)(2) of the Criminal Law Article;

(2) disturbing the peace under § 10–201(c)(4) of the Criminal Law Article;

(3) failure to obey a reasonable and lawful order under § 10–201(c)(3) of the Criminal Law Article;

(4) malicious destruction of property in the lesser degree under § 6–301 of the Criminal Law Article;

(5) trespass on posted property under § 6–402 of the Criminal Law Article;

(6) possessing or administering a controlled dangerous substance under § 5–601 of the Criminal Law Article;

(7) possessing or administering a noncontrolled substance under § 5–618(a) of the Criminal Law Article;

(8) use of or possession with intent to use drug paraphernalia under § 5–619(c)(2) of the Criminal Law Article;

(9) driving without a license under § 16–101 of the Transportation Article;

(10) driving while privilege is canceled, suspended, refused, or revoked under § 16–303 of the Transportation Article;

(11) driving while uninsured under § 17–107 of the Transportation Article;

(12) a prostitution offense under § 11–306(a)(1) of the Criminal Law Article if the conviction is for prostitution and not assignation; **OR**

(13) SMOKING MARIJUANA IN A PUBLIC PLACE.

Article – Transportation

21–903.

(a) (1) In this section the following words have the meanings indicated.

(2) “Alcoholic beverage” means a spirituous, vinous, malt, or fermented liquor, liquid, or compound that contains at least 0.5% alcohol by volume and is fit for beverage purposes.

(3) (i) “Passenger area” means an area that:

1 1. Is designed to seat the driver and any passenger of a motor
2 vehicle while the motor vehicle is in operation; or

3 2. Is readily accessible to the driver or a passenger of a motor
4 vehicle while in their seating positions.

5 (ii) “Passenger area” does not include:

6 1. A locked glove compartment;

7 2. The trunk of a motor vehicle; or

8 3. If a motor vehicle is not equipped with a trunk, the area
9 behind the rearmost upright seat or an area that is not normally occupied by the driver or
10 a passenger of the motor vehicle.

11 (b) This section applies to a motor vehicle that is driven, stopped, standing, or
12 otherwise located on a highway.

13 (c) A driver of a motor vehicle may not consume an alcoholic beverage in a
14 passenger area of a motor vehicle on a highway.

15 **(D) A DRIVER OF A MOTOR VEHICLE MAY NOT SMOKE OR OTHERWISE**
16 **CONSUME MARIJUANA IN A PASSENGER AREA OF A MOTOR VEHICLE ON A HIGHWAY.**

17 **(E) AN OCCUPANT OF A MOTOR VEHICLE MAY NOT SMOKE MARIJUANA IN A**
18 **PASSENGER AREA OF A MOTOR VEHICLE ON A HIGHWAY.**

19 **[(d)] (F)** Notwithstanding § 6–320, § 6–321, or § 6–322 of the Alcoholic
20 Beverages Article, or any other provision of law, the prohibition contained in this section
21 applies throughout the State.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2017.