

HOUSE BILL 777

E1

6lr2918

By: Delegates B. Wilson, Flanagan, Kittleman, W. Miller, Parrott, and Szeliga
Szeliga, Jalisi, Valentino-Smith, Aumann, Beitzel, Cluster, Mautz, Metzgar,
West, Arentz, Buckel, Carozza, Kipke, McKay, Rose, and Wivell

Introduced and read first time: February 8, 2016

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 15, 2016

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Smoking ~~or Consuming~~ Marijuana in a Public Place –**
3 **Prohibition**

4 FOR the purpose of prohibiting a person from smoking ~~or consuming~~ marijuana in certain
5 public places; providing for the application of this Act; establishing a certain penalty;
6 providing that a conviction under this Act is a shieldable conviction for a certain
7 purpose; providing for the expungement of a conviction under this Act; defining
8 certain terms; and generally relating to smoking or consuming marijuana.

9 BY repealing and reenacting, without amendments,
10 Article – Criminal Law
11 Section 5–601(a)
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2015 Supplement)
14 (As enacted by Chapter 4 of the Acts of the General Assembly of 2016)

15 BY repealing
16 Article – Criminal Law
17 Section 5–601(c)(4)
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2015 Supplement)
20 (As enacted by Chapter 4 of the Acts of the General Assembly of 2016)

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 adding to
2 Article – Criminal Law
3 Section 5–601.2
4 Annotated Code of Maryland
5 (2012 Replacement Volume and 2015 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Criminal Procedure
8 Section 10–105(a)
9 Annotated Code of Maryland
10 (2008 Replacement Volume and 2015 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Procedure
13 Section 10–301(f)
14 Annotated Code of Maryland
15 (2008 Replacement Volume and 2015 Supplement)

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 5–601.

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

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

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

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

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

29 (iii) the concealment of a material fact;

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

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

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

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

5 **5-601.2.**

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

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

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

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

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

18 ~~(C)~~ (D) A PERSON MAY NOT SMOKE ~~OR OTHERWISE CONSUME~~
19 MARIJUANA:

20 (1) IN A PUBLIC PLACE;

21 (2) IN OR ON A PUBLIC CONVEYANCE; OR

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

24 (I) AN INDOOR AREA OPEN TO THE PUBLIC;

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

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

29 (IV) AN INDOOR PLACE OF EMPLOYMENT.

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

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

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

5 (vi) loitering;

6 (vii) vagrancy;

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

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

12 (X) **SMOKING OR CONSUMING MARIJUANA IN A PUBLIC PLACE;**

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

15 (i) trespass;

16 (ii) disturbing the peace; or

17 (iii) telephone misuse; or

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

20 10-301.

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

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

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

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

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

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

2 (6) possessing or administering a controlled dangerous substance under §
3 5–601 of the Criminal Law Article;

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

6 (8) use of or possession with intent to use drug paraphernalia under §
7 5–619(c)(1) of the Criminal Law Article;

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

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

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

12 [or]

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

15 **(13) SMOKING MARIJUANA IN A PUBLIC PLACE UNDER § 5–601.2 OF**
16 **THE CRIMINAL LAW ARTICLE.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.