

HOUSE BILL 178

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HB 1243/98 - JUD

2000 Regular Session  
0lr1118  
CF 0lr2473

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By: **Delegates Menes and Grosfeld**  
Introduced and read first time: January 20, 2000  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 7, 2000

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CHAPTER 343

1 AN ACT concerning

2 **Drug Dealer Liability Act**

3 FOR the purpose of making certain persons who ~~manufacture, distribute, dispense, or~~  
4 ~~bring into or transport~~ are convicted under certain provisions of law of  
5 knowingly and willfully manufacturing, distributing, dispensing, bringing into,  
6 or transporting in the State a controlled dangerous substance liable in a civil  
7 action for damages for the death of an individual proximately caused by the  
8 individual's use of ~~controlled dangerous substances~~ the controlled dangerous  
9 substance under certain conditions; specifying certain persons entitled to bring  
10 an action under this Act; exempting from civil liability law enforcement officers  
11 and persons who act at the direction of or in cooperation with law enforcement  
12 officers in an official investigation; authorizing persons entitled to bring an  
13 action to recover economic damages, ~~noneconomic damages, and court costs and~~  
14 ~~reasonable attorney's fees; prohibiting a third party from paying damages~~  
15 ~~awarded under this Act or providing certain other financial assistance to certain~~  
16 ~~persons;~~ noneconomic damages, and certain other losses sustained by the  
17 plaintiff; providing that a defendant may not raise certain defenses in an action  
18 under this Act; defining a certain term; providing for the application of this Act;  
19 and generally relating to the civil liability of ~~dealers of controlled dangerous~~  
20 ~~substances~~ certain persons who are convicted under certain provisions of law of  
21 knowingly and willfully manufacturing, distributing, dispensing, bringing into,  
22 or transporting in the State a controlled dangerous substance.

23 BY adding to  
24 Article - Courts and Judicial Proceedings  
25 Section 3-1601 through 3-1607 to be under the new subtitle "Subtitle 16. Drug  
26 Dealer Liability Act"  
27 Annotated Code of Maryland

1 (1998 Replacement Volume and 1999 Supplement)

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

4 **Article - Courts and Judicial Proceedings**

5 SUBTITLE 16. DRUG DEALER LIABILITY ACT.

6 3-1601.

7 IN THIS SUBTITLE, "CONTROLLED DANGEROUS SUBSTANCE" HAS THE MEANING  
8 STATED IN ARTICLE 27, § 277(F) OF THE CODE.

9 3-1602.

10 ~~A PERSON WHO MANUFACTURES, DISTRIBUTES, DISPENSES, OR BRINGS INTO~~  
11 ~~OR TRANSPORTS IN THE STATE A CONTROLLED DANGEROUS SUBSTANCE IS LIABLE~~  
12 ~~FOR DAMAGES IN A CIVIL ACTION AS PROVIDED IN THIS SUBTITLE.~~

13 A PERSON WHO IS CONVICTED, UNDER ARTICLE 27, § 286 OR § 286A OF THE CODE,  
14 OF KNOWINGLY AND WILLFULLY MANUFACTURING, DISTRIBUTING, DISPENSING,  
15 BRINGING INTO, OR TRANSPORTING IN THE STATE A CONTROLLED DANGEROUS  
16 SUBSTANCE IS LIABLE FOR DAMAGES IN A CIVIL ACTION AS PROVIDED IN THIS  
17 SUBTITLE.

18 3-1603.

19 ~~A~~ INSTEAD OF BRINGING A WRONGFUL DEATH ACTION UNDER SUBTITLE 9 OF  
20 THIS TITLE AGAINST A PERSON DESCRIBED IN § 3-1602 OF THIS SUBTITLE, A CIVIL  
21 ACTION FOR DAMAGES FOR THE DEATH OF AN INDIVIDUAL CAUSED BY THE  
22 INDIVIDUAL'S USE OF A CONTROLLED DANGEROUS SUBSTANCE MAY BE BROUGHT  
23 UNDER THIS SUBTITLE BY ANYONE WHO IS INJURED FROM THE USE OF A  
24 CONTROLLED DANGEROUS SUBSTANCE BY AN INDIVIDUAL, INCLUDING:

25 (1) A PARENT, LEGAL GUARDIAN, CHILD, SPOUSE, OR SIBLING OF THE  
26 INDIVIDUAL USER OF THE CONTROLLED DANGEROUS SUBSTANCE;

27 (2) AN INDIVIDUAL WHO WAS EXPOSED TO A CONTROLLED DANGEROUS  
28 SUBSTANCE IN UTERO;

29 (3) AN EMPLOYER OF AN INDIVIDUAL USER OF A CONTROLLED  
30 DANGEROUS SUBSTANCE;

31 (4) A MEDICAL FACILITY, INSURER, GOVERNMENTAL UNIT, EMPLOYER,  
32 OR OTHER ENTITY THAT FUNDS A DRUG TREATMENT PROGRAM OR EMPLOYEE  
33 ASSISTANCE PROGRAM FOR THE INDIVIDUAL USER OF A CONTROLLED DANGEROUS  
34 SUBSTANCE OR THAT OTHERWISE SPENT MONEY ON BEHALF OF THE INDIVIDUAL  
35 USER OF A CONTROLLED DANGEROUS SUBSTANCE; AND

1           (5)     ~~THE INDIVIDUAL USER OF THE CONTROLLED DANGEROUS~~  
2 ~~SUBSTANCE, IF:~~

3           (1)     ~~THE INDIVIDUAL PERSONALLY DISCLOSED TO LAW~~  
4 ~~ENFORCEMENT OFFICERS MORE THAN 6 MONTHS BEFORE FILING THE ACTION ALL~~  
5 ~~THE INFORMATION KNOWN TO THE INDIVIDUAL REGARDING THE SOURCE OF THE~~  
6 ~~CONTROLLED DANGEROUS SUBSTANCE;~~

7           (II)    ~~THE INDIVIDUAL DID NOT USE A CONTROLLED DANGEROUS~~  
8 ~~SUBSTANCE WITHIN THE 6 MONTHS BEFORE FILING THE ACTION; AND~~

9           (III)   ~~THE INDIVIDUAL REMAINS FREE OF THE USE OF A~~  
10 ~~CONTROLLED DANGEROUS SUBSTANCE THROUGHOUT THE PENDENCY OF THE~~  
11 ~~ACTION.~~

12 3-1604.

13     A PERSON ENTITLED TO BRING A CIVIL ACTION UNDER THIS SUBTITLE MAY  
14 SEEK DAMAGES FROM A DEFENDANT ~~WHO MANUFACTURED, DISTRIBUTED,~~  
15 ~~DISPENSED, OR BROUGHT INTO OR TRANSPORTED IN THE STATE:~~

16           (1)     ~~THE CONTROLLED DANGEROUS SUBSTANCE THAT WAS ACTUALLY~~  
17 ~~USED BY THE INDIVIDUAL USER; OR~~

18           (2)     ~~A CONTROLLED DANGEROUS SUBSTANCE OF THE SAME TYPE THAT~~  
19 ~~WAS USED BY THE INDIVIDUAL USER, IF THE DEFENDANT'S ACTION OCCURRED AT~~  
20 ~~THE SAME TIME AND IN THE SAME COUNTY IN WHICH THE USE OCCURRED~~  
21 ~~DESCRIBED IN § 3-1602 OF THIS SUBTITLE IF THE CONTROLLED DANGEROUS~~  
22 ~~SUBSTANCE MANUFACTURED, DISTRIBUTED, DISPENSED, BROUGHT INTO, OR~~  
23 ~~TRANSPORTED IN THE STATE BY THE DEFENDANT WAS ACTUALLY USED BY, AND~~  
24 ~~WAS THE PROXIMATE CAUSE OF THE DEATH OF, AN INDIVIDUAL.~~

25 3-1605.

26     A LAW ENFORCEMENT OFFICER WHO ACTS IN FURTHERANCE OF AN OFFICIAL  
27 INVESTIGATION OR A PERSON WHO ACTS AT THE DIRECTION OR IN COOPERATION  
28 WITH A LAW ENFORCEMENT OFFICER IN AN OFFICIAL INVESTIGATION IS NOT  
29 LIABLE UNDER THIS SUBTITLE.

30 3-1606.

31     A PERSON ENTITLED TO BRING A CIVIL ACTION UNDER THIS SUBTITLE MAY  
32 RECOVER ANY OR ALL OF THE FOLLOWING:

33           (1)     ~~ECONOMIC DAMAGES, INCLUDING THE COST OF TREATMENT AND~~  
34 ~~REHABILITATION, MEDICAL EXPENSES, LOSS OF ECONOMIC OR EDUCATIONAL~~  
35 ~~POTENTIAL, LOSS OF PRODUCTIVITY, ABSENTEEISM, SUPPORT EXPENSES,~~  
36 ~~ACCIDENTS OR INJURY, AND ANY OTHER PECUNIARY LOSS SUSTAINED BY THE~~  
37 ~~PLAINTIFF THAT WAS PROXIMATELY CAUSED BY THE DEATH OF AN INDIVIDUAL~~

1 FROM THE INDIVIDUAL'S UNLAWFUL USE OF A CONTROLLED DANGEROUS  
2 SUBSTANCE; AND

3 (2) ~~NONECONOMIC DAMAGES, INCLUDING PHYSICAL AND EMOTIONAL~~  
4 ~~PAIN AND SUFFERING, PHYSICAL IMPAIRMENT, EMOTIONAL DISTRESS, MENTAL~~  
5 ~~ANGUISH, DISFIGUREMENT, LOSS OF ENJOYMENT, LOSS OF COMPANIONSHIP,~~  
6 ~~SERVICES AND CONSORTIUM, AND OTHER NONPECUNIARY LOSSES~~ LOSS SUSTAINED  
7 BY THE PLAINTIFF THAT WAS PROXIMATELY CAUSED BY AN THE DEATH OF AN  
8 INDIVIDUAL FROM THE INDIVIDUAL'S UNLAWFUL USE OF A CONTROLLED  
9 DANGEROUS SUBSTANCE; OR

10 (3) ~~COURT COSTS AND REASONABLE ATTORNEY'S FEES, INCLUDING~~  
11 ~~REASONABLE EXPENSES FOR EXPERT TESTIMONY.~~

12 3-1607.

13 ~~A THIRD PARTY MAY NOT PAY DAMAGES AWARDED UNDER THIS SUBTITLE,~~  
14 ~~PROVIDE A DEFENSE, OR PROVIDE MONEY FOR A DEFENSE ON BEHALF OF AN~~  
15 ~~INSURED UNDER A CONTRACT OF INSURANCE OR INDEMNIFICATION.~~

16 A DEFENDANT IN AN ACTION UNDER THIS SUBTITLE MAY NOT RAISE A  
17 DEFENSE OF ASSUMPTION OF RISK OR CONTRIBUTORY NEGLIGENCE BASED ON THE  
18 USE OF A CONTROLLED DANGEROUS SUBSTANCE BY THE DECEASED INDIVIDUAL.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
20 construed only prospectively and may not be applied or interpreted to have any effect  
21 on or application to any civil action for damages for the death of an individual from  
22 the use, before the effective date of this Act, of a controlled dangerous substance.

23 ~~SECTION 2. 3.~~ AND BE IT FURTHER ENACTED, That this Act shall take  
24 effect October 1, 2000.