

# HOUSE BILL 262

E1, E4

3lr0798  
CF 3lr0799

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By: **Delegates Haddaway–Riccio, Conway, Eckardt, Hershey, Hogan, Krebs, McComas, McDermott, Otto, Rudolph, Schuh, Schulz, and Vitale**

Introduced and read first time: January 23, 2013

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Distribution of Faked Controlled Dangerous Substance –**  
3 **Substantially Similar Chemical Structure**

4 FOR the purpose of requiring a court, in determining if a person has violated the  
5 prohibition against distributing, attempting to distribute, or possessing with  
6 intent to distribute a certain noncontrolled substance, to consider whether the  
7 chemical structure of the noncontrolled substance is substantially similar to the  
8 chemical structure of a controlled dangerous substance; and generally relating  
9 to controlled dangerous substances.

10 BY repealing and reenacting, with amendments,  
11 Article – Criminal Law  
12 Section 5–617  
13 Annotated Code of Maryland  
14 (2012 Replacement Volume and 2012 Supplement)

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

17 **Article – Criminal Law**

18 5–617.

19 (a) A person may not distribute, attempt to distribute, or possess with intent  
20 to distribute a noncontrolled substance:

21 (1) that the person represents as a controlled dangerous substance;

22 (2) that the person intends for use or distribution as a controlled  
23 dangerous substance; or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   (3)     under circumstances where one reasonably should know that the  
2 noncontrolled substance will be used or distributed for use as a controlled dangerous  
3 substance.

4                   (b)     To determine if a person has violated this section, the court or other  
5 authority shall include in its consideration:

6                   (1)     whether the noncontrolled substance was packaged in a manner  
7 normally used to distribute a controlled dangerous substance illegally;

8                   (2)     whether the distribution or attempted distribution included an  
9 exchange of or demand for money or other property as consideration, and whether the  
10 amount of consideration was substantially greater than the reasonable value of the  
11 noncontrolled substance; [and]

12                   (3)     whether the physical appearance of the noncontrolled substance is  
13 substantially identical to that of a controlled dangerous substance; **AND**

14                   **(4)     WHETHER     THE     CHEMICAL     STRUCTURE     OF     THE**  
15 **NONCONTROLLED SUBSTANCE IS SUBSTANTIALLY SIMILAR TO THE CHEMICAL**  
16 **STRUCTURE OF A CONTROLLED DANGEROUS SUBSTANCE.**

17                   (c)     A person who violates this section is guilty of a felony and on conviction is  
18 subject to imprisonment not exceeding 5 years or a fine not exceeding \$15,000 or both.

19                   (d)     It is not a defense to a prosecution under this section that the defendant  
20 believed that the noncontrolled substance was a controlled dangerous substance.

21                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2013.