
By: Delegate Marriott

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Assigned to: Judiciary

A BILL ENTITLED

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 in the State a controlled dangerous substance liable in a civil
5 action for damages caused by the use of controlled dangerous substances under
6 certain conditions; specifying certain persons entitled to bring an action under this
7 Act; exempting from civil liability law enforcement officers and persons who act at
8 the direction or in cooperation with law enforcement officers in an official
9 investigation; authorizing persons entitled to bring an action to recover economic
10 damages, noneconomic damages, court costs and reasonable attorney's fees;
11 prohibiting a third party from paying damages awarded under this Act providing
12 certain other financial assistance to certain persons; authorizing a plaintiff to
13 request a prejudgment writ of attachment under certain conditions; establishing
14 certain statutes of limitations for bringing an action under this Act; defining a
15 certain term; and generally relating to the civil liability of dealers of controlled
16 dangerous substances.

17 BY adding to

18 Article - Courts and Judicial Proceedings
19 Section 3-1401 through 3-1409 to be under the new subtitle "Subtitle 14. Drug
20 Dealer Liability Act"
21 Annotated Code of Maryland
22 (1995 Replacement Volume and 1995 Supplement)

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

25 **Article - Courts and Judicial Proceedings**

26 **SUBTITLE 14. DRUG DEALER LIABILITY ACT.**

27 3-1401.

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

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1 3-1402.

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

5 3-1403.

6 A CIVIL ACTION FOR DAMAGES MAY BE BROUGHT UNDER THIS SUBTITLE BY
7 ANYONE WHO IS INJURED FROM THE USE BY AN INDIVIDUAL OF A CONTROLLED
8 DANGEROUS SUBSTANCE, INCLUDING:

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

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

13 (3) AN EMPLOYER OF AN INDIVIDUAL USER OF A CONTROLLED
14 DANGEROUS SUBSTANCE;

15 (4) A MEDICAL FACILITY, INSURER, GOVERNMENTAL UNIT, EMPLOYER,
16 OR OTHER ENTITY THAT FUNDS A DRUG TREATMENT PROGRAM OR EMPLOYEE
17 ASSISTANCE PROGRAM FOR THE INDIVIDUAL USER OF A CONTROLLED
18 DANGEROUS SUBSTANCE OR THAT OTHERWISE SPENT MONEY ON BEHALF OF THE
19 INDIVIDUAL USER OF A CONTROLLED DANGEROUS SUBSTANCE; AND

20 (5) THE INDIVIDUAL USER OF THE CONTROLLED DANGEROUS
21 SUBSTANCE, IF:

22 (I) THE INDIVIDUAL PERSONALLY DISCLOSED TO LAW
23 ENFORCEMENT OFFICERS MORE THAN 6 MONTHS BEFORE FILING THE ACTION ALL
24 THE INFORMATION KNOWN TO THE INDIVIDUAL REGARDING THE SOURCE OF THE
25 CONTROLLED DANGEROUS SUBSTANCE;

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

28 (III) THE INDIVIDUAL REMAINS FREE OF THE USE OF A
29 CONTROLLED DANGEROUS SUBSTANCE THROUGHOUT THE PENDENCY OF THE
30 ACTION.

31 3-1404.

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

35 (1) THE CONTROLLED DANGEROUS SUBSTANCE THAT WAS
36 ACTUALLY USED BY THE INDIVIDUAL USER; OR

37 (2) A CONTROLLED DANGEROUS SUBSTANCE OF THE SAME TYPE
38 THAT WAS USED BY THE INDIVIDUAL USER, IF THE DEFENDANT'S ACTION

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1 OCCURRED AT THE SAME TIME AND IN THE SAME COUNTY IN WHICH THE USE
2 OCCURRED.

3 3-1405.

4 A LAW ENFORCEMENT OFFICER WHO ACTS IN FURTHERANCE OF AN OFFICIAL
5 INVESTIGATION OR A PERSON WHO ACTS AT THE DIRECTION OR IN COOPERATION
6 WITH A LAW ENFORCEMENT OFFICER IN AN OFFICIAL INVESTIGATION IS NOT
7 LIABLE UNDER THIS SUBTITLE.

8 3-1406.

9 A PERSON ENTITLED TO BRING A CIVIL ACTION UNDER THIS SUBTITLE MAY
10 RECOVER:

11 (1) ECONOMIC DAMAGES, INCLUDING THE COST OF TREATMENT AND
12 REHABILITATION, MEDICAL EXPENSES, LOSS OF ECONOMIC OR EDUCATIONAL
13 POTENTIAL, LOSS OF PRODUCTIVITY, ABSENTEEISM, SUPPORT EXPENSES,
14 ACCIDENTS OR INJURY, AND ANY OTHER PECUNIARY LOSS PROXIMATELY CAUSED
15 BY THE UNLAWFUL USE OF A CONTROLLED DANGEROUS SUBSTANCE;

16 (2) NONECONOMIC DAMAGES, INCLUDING PHYSICAL AND EMOTIONAL
17 PAIN, SUFFERING, PHYSICAL IMPAIRMENT, EMOTIONAL DISTRESS, MENTAL
18 ANGUISH, DISFIGUREMENT, LOSS OF ENJOYMENT, LOSS OF COMPANIONSHIP,
19 SERVICES AND CONSORTIUM, AND OTHER NONPECUNIARY LOSSES PROXIMATELY
20 CAUSED BY AN INDIVIDUAL'S UNLAWFUL USE OF A CONTROLLED DANGEROUS
21 SUBSTANCE; OR

22 (3) COURT COSTS AND REASONABLE ATTORNEY'S FEES, INCLUDING
23 REASONABLE EXPENSES FOR EXPERT TESTIMONY.

24 3-1407.

25 A THIRD PARTY MAY NOT PAY DAMAGES AWARDED UNDER THIS SUBTITLE,
26 PROVIDE A DEFENSE, OR PROVIDE MONEY FOR A DEFENSE ON BEHALF OF AN
27 INSURED UNDER A CONTRACT OF INSURANCE OR INDEMNIFICATION.

28 3-1408.

29 (A) A PLAINTIFF MAY REQUEST AN EX PARTE PREJUDGMENT WRIT OF
30 ATTACHMENT FROM THE COURT AGAINST ALL ASSETS OF A DEFENDANT
31 SUFFICIENT TO SATISFY A POTENTIAL AWARD.

32 (B) IF AN ATTACHMENT IS INSTITUTED, A DEFENDANT IS ENTITLED TO AN
33 IMMEDIATE HEARING.

34 (C) THE ATTACHMENT MAY BE LIFTED IF THE DEFENDANT DEMONSTRATES
35 THAT THE ASSETS WILL BE AVAILABLE FOR A POTENTIAL AWARD OR IF THE
36 DEFENDANT POSTS A BOND SUFFICIENT TO COVER A POTENTIAL AWARD.

37 (D) A PERSON AGAINST WHOM A JUDGMENT HAS BEEN RENDERED UNDER
38 THIS SUBTITLE IS NOT ELIGIBLE TO EXEMPT ANY PROPERTY FROM PROCESS TO
39 LEVY OR PROCESS TO EXECUTE ON THE JUDGMENT.

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1 (E) ANY ASSETS SOUGHT TO SATISFY A JUDGMENT UNDER THIS SUBTITLE
2 THAT ARE NAMED IN A FORFEITURE ACTION OR HAVE BEEN SEIZED FOR
3 FORFEITURE BY A STATE OR FEDERAL AGENCY MAY NOT BE USED TO SATISFY A
4 JUDGMENT UNLESS THE ASSETS HAVE BEEN RELEASED AFTER THE END OF THE
5 FORFEITURE ACTION OR RELEASED BY THE FEDERAL AGENCY THAT SEIZED THE
6 ASSETS.

7 3-1409.

8 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A CLAIM
9 UNDER THIS SUBTITLE MAY NOT BE BROUGHT MORE THAN 2 YEARS AFTER THE
10 CAUSE OF ACTION ACCRUES.

11 (B) A CAUSE OF ACTION UNDER THIS SUBTITLE ACCRUES WHEN A PERSON
12 WHO MAY RECOVER HAS REASON TO KNOW OF THE HARM FROM UNLAWFUL USE
13 OF A CONTROLLED DANGEROUS SUBSTANCE THAT IS THE BASIS FOR THE CAUSE OF
14 ACTION AND HAS REASON TO KNOW THAT THE UNLAWFUL USE OF THE
15 CONTROLLED DANGEROUS SUBSTANCE IS THE CAUSE OF THE HARM.

16 (C) FOR A PLAINTIFF, THE STATUTE OF LIMITATIONS UNDER THIS SUBTITLE
17 IS TOLLED WHEN THE INDIVIDUAL POTENTIAL PLAINTIFF IS INCAPACITATED BY
18 THE USE OF A CONTROLLED DANGEROUS SUBSTANCE TO THE EXTENT THAT THE
19 INDIVIDUAL CANNOT REASONABLY BE EXPECTED TO SEEK RECOVERY UNDER THIS
20 SUBTITLE OR AS OTHERWISE PROVIDED BY LAW.

21 (D) FOR A DEFENDANT, THE STATUTE OF LIMITATIONS UNDER THIS
22 SUBTITLE IS TOLLED UNTIL 6 MONTHS AFTER THE INDIVIDUAL POTENTIAL
23 DEFENDANT IS CONVICTED OF A CONTROLLED DANGEROUS SUBSTANCE OFFENSE
24 AS OTHERWISE PROVIDED BY LAW.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1996.