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**By: Senator Trotter**

Requested: October 25, 1996

Introduced and read first time: January 8, 1997

Assigned to: Judicial Proceedings

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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 of 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 or 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 1996 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  
29 MEANING 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 ACTUALLY  
36 USED BY THE INDIVIDUAL USER; OR

37 (2) A CONTROLLED DANGEROUS SUBSTANCE OF THE SAME TYPE THAT  
38 WAS USED BY THE INDIVIDUAL USER, IF THE DEFENDANT'S ACTION OCCURRED AT  
39 THE SAME TIME AND IN THE SAME COUNTY IN WHICH THE USE OCCURRED.

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1 3-1405.

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

6 3-1406.

7 A PERSON ENTITLED TO BRING A CIVIL ACTION UNDER THIS SUBTITLE MAY  
8 RECOVER:

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

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

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

22 3-1407.

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

26 3-1408.

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

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

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

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

38 (E) ANY ASSETS SOUGHT TO SATISFY A JUDGMENT UNDER THIS SUBTITLE  
39 THAT ARE NAMED IN A FORFEITURE ACTION OR HAVE BEEN SEIZED FOR  
40 FORFEITURE BY A STATE OR FEDERAL AGENCY MAY NOT BE USED TO SATISFY A

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1 JUDGMENT UNLESS THE ASSETS HAVE BEEN RELEASED AFTER THE END OF THE  
2 FORFEITURE ACTION OR RELEASED BY THE FEDERAL AGENCY THAT SEIZED THE  
3 ASSETS.

4 3-1409.

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

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

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

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 1997.