

HOUSE BILL 1243

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HB 912/96 - JUD

1998 Regular Session
8lr0197

By: **Delegates Muse, Marriott, C. Mitchell, Benson, Fulton, Branch, E.
Burns, Harrison, Patterson, and C. Davis**

Introduced and read first time: February 13, 1998

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

17 BY adding to

18 Article - Courts and Judicial Proceedings

19 Section 3-1501 through 3-1509 to be under the new subtitle "Subtitle 15. Drug
20 Dealer Liability Act"

21 Annotated Code of Maryland

22 (1995 Replacement Volume and 1997 Supplement)

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

1 **Article - Courts and Judicial Proceedings**

2 SUBTITLE 15. DRUG DEALER LIABILITY ACT.

3 3-1501.

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

6 3-1502.

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

10 3-1503.

11 A CIVIL ACTION FOR DAMAGES MAY BE BROUGHT UNDER THIS SUBTITLE BY
12 ANYONE WHO IS INJURED FROM THE USE BY AN INDIVIDUAL OF A CONTROLLED
13 DANGEROUS SUBSTANCE, INCLUDING:14 (1) A PARENT, LEGAL GUARDIAN, CHILD, SPOUSE, OR SIBLING OF THE
15 INDIVIDUAL USER OF THE CONTROLLED DANGEROUS SUBSTANCE;16 (2) AN INDIVIDUAL WHO WAS EXPOSED TO A CONTROLLED DANGEROUS
17 SUBSTANCE IN UTERO;18 (3) AN EMPLOYER OF AN INDIVIDUAL USER OF A CONTROLLED
19 DANGEROUS SUBSTANCE;20 (4) A MEDICAL FACILITY, INSURER, GOVERNMENTAL UNIT, EMPLOYER,
21 OR OTHER ENTITY THAT FUNDS A DRUG TREATMENT PROGRAM OR EMPLOYEE
22 ASSISTANCE PROGRAM FOR THE INDIVIDUAL USER OF A CONTROLLED DANGEROUS
23 SUBSTANCE OR THAT OTHERWISE SPENT MONEY ON BEHALF OF THE INDIVIDUAL
24 USER OF A CONTROLLED DANGEROUS SUBSTANCE; AND25 (5) THE INDIVIDUAL USER OF THE CONTROLLED DANGEROUS
26 SUBSTANCE, IF:27 (I) THE INDIVIDUAL PERSONALLY DISCLOSED TO LAW
28 ENFORCEMENT OFFICERS MORE THAN 6 MONTHS BEFORE FILING THE ACTION ALL
29 THE INFORMATION KNOWN TO THE INDIVIDUAL REGARDING THE SOURCE OF THE
30 CONTROLLED DANGEROUS SUBSTANCE;31 (II) THE INDIVIDUAL DID NOT USE A CONTROLLED DANGEROUS
32 SUBSTANCE WITHIN THE 6 MONTHS BEFORE FILING THE ACTION; AND33 (III) THE INDIVIDUAL REMAINS FREE OF THE USE OF A
34 CONTROLLED DANGEROUS SUBSTANCE THROUGHOUT THE PENDENCY OF THE
35 ACTION.

1 3-1504.

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

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

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

10 3-1505.

11 A LAW ENFORCEMENT OFFICER WHO ACTS IN FURTHERANCE OF AN OFFICIAL
12 INVESTIGATION OR A PERSON WHO ACTS AT THE DIRECTION OR IN COOPERATION
13 WITH A LAW ENFORCEMENT OFFICER IN AN OFFICIAL INVESTIGATION IS NOT
14 LIABLE UNDER THIS SUBTITLE.

15 3-1506.

16 A PERSON ENTITLED TO BRING A CIVIL ACTION UNDER THIS SUBTITLE MAY
17 RECOVER:

18 (1) ECONOMIC DAMAGES, INCLUDING THE COST OF TREATMENT AND
19 REHABILITATION, MEDICAL EXPENSES, LOSS OF ECONOMIC OR EDUCATIONAL
20 POTENTIAL, LOSS OF PRODUCTIVITY, ABSENTEEISM, SUPPORT EXPENSES,
21 ACCIDENTS OR INJURY, AND ANY OTHER PECUNIARY LOSS PROXIMATELY CAUSED
22 BY THE UNLAWFUL USE OF A CONTROLLED DANGEROUS SUBSTANCE;

23 (2) NONECONOMIC DAMAGES, INCLUDING PHYSICAL AND EMOTIONAL
24 PAIN, SUFFERING, PHYSICAL IMPAIRMENT, EMOTIONAL DISTRESS, MENTAL
25 ANGUISH, DISFIGUREMENT, LOSS OF ENJOYMENT, LOSS OF COMPANIONSHIP,
26 SERVICES AND CONSORTIUM, AND OTHER NONPECUNIARY LOSSES PROXIMATELY
27 CAUSED BY AN INDIVIDUAL'S UNLAWFUL USE OF A CONTROLLED DANGEROUS
28 SUBSTANCE; OR

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

31 3-1507.

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

1 3-1508.

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

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

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

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

13 (E) ANY ASSETS SOUGHT TO SATISFY A JUDGMENT UNDER THIS SUBTITLE
14 THAT ARE NAMED IN A FORFEITURE ACTION OR HAVE BEEN SEIZED FOR
15 FORFEITURE BY A STATE OR FEDERAL AGENCY MAY NOT BE USED TO SATISFY A
16 JUDGMENT UNLESS THE ASSETS HAVE BEEN RELEASED AFTER THE END OF THE
17 FORFEITURE ACTION OR RELEASED BY THE FEDERAL AGENCY THAT SEIZED THE
18 ASSETS.

19 3-1509.

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

23 (B) A CAUSE OF ACTION UNDER THIS SUBTITLE ACCRUES WHEN A PERSON
24 WHO MAY RECOVER HAS REASON TO KNOW OF THE HARM FROM UNLAWFUL USE OF
25 A CONTROLLED DANGEROUS SUBSTANCE THAT IS THE BASIS FOR THE CAUSE OF
26 ACTION AND HAS REASON TO KNOW THAT THE UNLAWFUL USE OF THE
27 CONTROLLED DANGEROUS SUBSTANCE IS THE CAUSE OF THE HARM.

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

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

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
38 October 1, 1998.