

SENATE BILL 796

Unofficial Copy  
E2

1998 Regular Session  
8r2807  
CF HB 1328

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By: **Senator Forehand**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 18, 1998

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substances - Drug Offenders - Fees**

3 FOR the purpose of requiring persons who are convicted of or receive probation before  
4 judgment for certain offenses relating to controlled dangerous substances to pay  
5 certain fees to the clerk of the court; requiring the clerk of the court to forward  
6 the money collected under this Act to the Comptroller; requiring the Comptroller  
7 to deposit the money collected under this Act in the General Fund; prohibiting a  
8 court from waiving certain fees unless certain circumstances exist; providing for  
9 the application of this Act; and generally relating to controlled dangerous  
10 substances.

11 BY adding to  
12 Article 27 - Crimes and Punishments  
13 Section 306  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 1997 Supplement)

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

18 **Article 27 - Crimes and Punishments**

19 306.

20 (A) IN THIS SECTION, "DRUG OFFENDER" MEANS A PERSON WHO IS  
21 CONVICTED OF OR RECEIVES PROBATION BEFORE JUDGMENT UNDER § 641 OF THIS  
22 ARTICLE FOR VIOLATING ANY PROVISION OF THIS SUBHEADING.

23 (B) IN ADDITION TO ANY OTHER PROVISION OF LAW, A DRUG OFFENDER  
24 SHALL PAY A FEE IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION TO  
25 THE CLERK OF THE COURT IN WHICH THE DRUG OFFENDER IS CONVICTED OR IN  
26 WHICH PROBATION BEFORE JUDGMENT AGAINST THE DRUG OFFENDER IS ENTERED:

1 (1) \$4,000, IF THE DRUG OFFENDER IS CONVICTED OF VIOLATING § 286  
2 (G) OF THIS SUBHEADING;

3 (2) \$3,000, IF THE DRUG OFFENDER IS CONVICTED OF VIOLATING § 281A,  
4 § 286(B)(1) AND (2), § 286A, § 286C, OR § 287A(D)(2) OF THIS SUBHEADING;

5 (3) \$2,000, IF THE DRUG OFFENDER IS CONVICTED OF VIOLATING §  
6 286(B)(3), § 286B, OR § 287A(D)(1) OF THIS SUBHEADING FOR A SUBSEQUENT OFFENSE  
7 INVOLVING DELIVERY OR SALE OF DRUG PARAPHERNALIA;

8 (4) \$1,000, IF THE DRUG OFFENDER IS CONVICTED OF VIOLATING:

9 (I) § 287 OF THIS SUBHEADING INVOLVING ANY CONTROLLED  
10 DANGEROUS SUBSTANCE OTHER THAN MARIJUANA; OR

11 (II) § 287A(C) OF THIS SUBHEADING, FOR A SUBSEQUENT OFFENSE  
12 INVOLVING USE OF DRUG PARAPHERNALIA;

13 (5) \$500, IF THE DRUG OFFENDER IS CONVICTED OF VIOLATING:

14 (I) § 287 OF THIS SUBHEADING INVOLVING MARIJUANA;

15 (II) § 287A(C) OF THIS SUBHEADING, FOR A FIRST OFFENSE  
16 INVOLVING USE OF DRUG PARAPHERNALIA; OR

17 (III) § 287A(D)(1) OF THIS SUBHEADING, FOR A FIRST OFFENSE  
18 INVOLVING DELIVERY OR SALE OF DRUG PARAPHERNALIA; AND

19 (6) \$100, IF THE DRUG OFFENDER RECEIVES PROBATION BEFORE  
20 JUDGMENT UNDER § 641 OF THIS ARTICLE FOR VIOLATING ANY PROVISION OF THIS  
21 SUBHEADING.

22 (C) (1) THE CLERK OF THE COURT SHALL FORWARD THE MONEY  
23 COLLECTED UNDER SUBSECTION (B) OF THIS SECTION TO THE COMPTROLLER.

24 (2) THE COMPTROLLER SHALL DEPOSIT THE MONEY IN THE GENERAL  
25 FUND.

26 (D) (1) A COURT MAY NOT WAIVE A FEE IMPOSED UNDER THIS SECTION  
27 UNLESS THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT A DRUG  
28 OFFENDER IS NOT FINANCIALLY ABLE TO PAY THE FEE.

29 (2) THE COURT MAY MAKE A FINDING AS DESCRIBED IN PARAGRAPH (1)  
30 OF THIS SUBSECTION ONLY AFTER A HEARING AT WHICH THE DRUG OFFENDER HAS  
31 THE BURDEN OF PROVING THE DRUG OFFENDER'S INABILITY TO PAY ANY PORTION  
32 OF THE FEE.

33 (3) THE COURT SHALL WAIVE ONLY THE PORTION OF THE FEE THAT  
34 THE COURT FINDS THAT THE DRUG OFFENDER IS NOT FINANCIALLY ABLE TO PAY.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall only apply  
2 to offenses committed on or after the effective date of this Act and may not be  
3 construed to apply in any way to offenses committed before the effective date of this  
4 Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 1998.