

HOUSE BILL 178

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D3
HB 1243/98 - JUD

2000 Regular Session
0lr1118
CF 0lr2473

By: **Delegates Menes and Grosfeld**
Introduced and read first time: January 20, 2000
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 7, 2000

CHAPTER _____

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~~ are convicted under certain provisions of law of
5 knowingly and willfully manufacturing, distributing, dispensing, bringing into,
6 or transporting in the State a controlled dangerous substance liable in a civil
7 action for damages for the death of an individual proximately caused by the
8 individual's use of ~~controlled dangerous substances~~ the controlled dangerous
9 substance under certain conditions; specifying certain persons entitled to bring
10 an action under this Act; exempting from civil liability law enforcement officers
11 and persons who act at the direction of or in cooperation with law enforcement
12 officers in an official investigation; authorizing persons entitled to bring an
13 action to recover economic damages, ~~noneconomic damages, and court costs and~~
14 ~~reasonable attorney's fees; prohibiting a third party from paying damages~~
15 ~~awarded under this Act or providing certain other financial assistance to certain~~
16 ~~persons;~~ noneconomic damages, and certain other losses sustained by the
17 plaintiff; providing that a defendant may not raise certain defenses in an action
18 under this Act; defining a certain term; providing for the application of this Act;
19 and generally relating to the civil liability of ~~dealers of controlled dangerous~~
20 ~~substances~~ certain persons who are convicted under certain provisions of law of
21 knowingly and willfully manufacturing, distributing, dispensing, bringing into,
22 or transporting in the State a controlled dangerous substance.

23 BY adding to
24 Article - Courts and Judicial Proceedings
25 Section 3-1601 through 3-1607 to be under the new subtitle "Subtitle 16. Drug
26 Dealer Liability Act"
27 Annotated Code of Maryland

1 (1998 Replacement Volume and 1999 Supplement)

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

4 **Article - Courts and Judicial Proceedings**

5 SUBTITLE 16. DRUG DEALER LIABILITY ACT.

6 3-1601.

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

9 3-1602.

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

13 A PERSON WHO IS CONVICTED, UNDER ARTICLE 27, § 286 OR § 286A OF THE CODE,
14 OF KNOWINGLY AND WILLFULLY MANUFACTURING, DISTRIBUTING, DISPENSING,
15 BRINGING INTO, OR TRANSPORTING IN THE STATE A CONTROLLED DANGEROUS
16 SUBSTANCE IS LIABLE FOR DAMAGES IN A CIVIL ACTION AS PROVIDED IN THIS
17 SUBTITLE.

18 3-1603.

19 ~~A- INSTEAD OF BRINGING A WRONGFUL DEATH ACTION UNDER SUBTITLE 9 OF~~
20 ~~THIS TITLE AGAINST A PERSON DESCRIBED IN § 3-1602 OF THIS SUBTITLE, A CIVIL~~
21 ~~ACTION FOR DAMAGES FOR THE DEATH OF AN INDIVIDUAL CAUSED BY THE~~
22 ~~INDIVIDUAL'S USE OF A CONTROLLED DANGEROUS SUBSTANCE MAY BE BROUGHT~~
23 ~~UNDER THIS SUBTITLE BY ANYONE WHO IS INJURED FROM THE USE OF A~~
24 ~~CONTROLLED DANGEROUS SUBSTANCE BY AN INDIVIDUAL, INCLUDING:~~

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

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

29 (3) AN EMPLOYER OF AN INDIVIDUAL USER OF A CONTROLLED
30 DANGEROUS SUBSTANCE;

31 (4) A MEDICAL FACILITY, INSURER, GOVERNMENTAL UNIT, EMPLOYER,
32 OR OTHER ENTITY THAT FUNDS A DRUG TREATMENT PROGRAM OR EMPLOYEE
33 ASSISTANCE PROGRAM FOR THE INDIVIDUAL USER OF A CONTROLLED DANGEROUS
34 SUBSTANCE OR THAT OTHERWISE SPENT MONEY ON BEHALF OF THE INDIVIDUAL
35 USER OF A CONTROLLED DANGEROUS SUBSTANCE; AND

1 (5) ~~THE INDIVIDUAL USER OF THE CONTROLLED DANGEROUS~~
2 ~~SUBSTANCE, IF:~~

3 (1) ~~THE INDIVIDUAL PERSONALLY DISCLOSED TO LAW~~
4 ~~ENFORCEMENT OFFICERS MORE THAN 6 MONTHS BEFORE FILING THE ACTION ALL~~
5 ~~THE INFORMATION KNOWN TO THE INDIVIDUAL REGARDING THE SOURCE OF THE~~
6 ~~CONTROLLED DANGEROUS SUBSTANCE;~~

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

9 (III) ~~THE INDIVIDUAL REMAINS FREE OF THE USE OF A~~
10 ~~CONTROLLED DANGEROUS SUBSTANCE THROUGHOUT THE PENDENCY OF THE~~
11 ~~ACTION.~~

12 3-1604.

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

16 (1) ~~THE CONTROLLED DANGEROUS SUBSTANCE THAT WAS ACTUALLY~~
17 ~~USED BY THE INDIVIDUAL USER; OR~~

18 (2) ~~A CONTROLLED DANGEROUS SUBSTANCE OF THE SAME TYPE THAT~~
19 ~~WAS USED BY THE INDIVIDUAL USER, IF THE DEFENDANT'S ACTION OCCURRED AT~~
20 ~~THE SAME TIME AND IN THE SAME COUNTY IN WHICH THE USE OCCURRED~~
21 ~~DESCRIBED IN § 3-1602 OF THIS SUBTITLE IF THE CONTROLLED DANGEROUS~~
22 ~~SUBSTANCE MANUFACTURED, DISTRIBUTED, DISPENSED, BROUGHT INTO, OR~~
23 ~~TRANSPORTED IN THE STATE BY THE DEFENDANT WAS ACTUALLY USED BY, AND~~
24 ~~WAS THE PROXIMATE CAUSE OF THE DEATH OF, AN INDIVIDUAL.~~

25 3-1605.

26 A LAW ENFORCEMENT OFFICER WHO ACTS IN FURTHERANCE OF AN OFFICIAL
27 INVESTIGATION OR A PERSON WHO ACTS AT THE DIRECTION OR IN COOPERATION
28 WITH A LAW ENFORCEMENT OFFICER IN AN OFFICIAL INVESTIGATION IS NOT
29 LIABLE UNDER THIS SUBTITLE.

30 3-1606.

31 A PERSON ENTITLED TO BRING A CIVIL ACTION UNDER THIS SUBTITLE MAY
32 RECOVER ANY OR ALL OF THE FOLLOWING:

33 (1) ~~ECONOMIC DAMAGES, INCLUDING THE COST OF TREATMENT AND~~
34 ~~REHABILITATION, MEDICAL EXPENSES, LOSS OF ECONOMIC OR EDUCATIONAL~~
35 ~~POTENTIAL, LOSS OF PRODUCTIVITY, ABSENTEEISM, SUPPORT EXPENSES,~~
36 ~~ACCIDENTS OR INJURY, AND ANY OTHER PECUNIARY LOSS SUSTAINED BY THE~~
37 ~~PLAINTIFF THAT WAS PROXIMATELY CAUSED BY THE DEATH OF AN INDIVIDUAL~~

1 FROM THE INDIVIDUAL'S UNLAWFUL USE OF A CONTROLLED DANGEROUS
2 SUBSTANCE; AND

3 (2) NONECONOMIC DAMAGES, INCLUDING ~~PHYSICAL AND EMOTIONAL~~
4 ~~PAIN AND SUFFERING, PHYSICAL IMPAIRMENT,~~ EMOTIONAL DISTRESS, MENTAL
5 ANGUISH, ~~DISFIGUREMENT,~~ LOSS OF ENJOYMENT, LOSS OF COMPANIONSHIP,
6 SERVICES AND CONSORTIUM, AND OTHER NONPECUNIARY ~~LOSSES~~ LOSS SUSTAINED
7 BY THE PLAINTIFF THAT WAS PROXIMATELY CAUSED BY AN THE DEATH OF AN
8 INDIVIDUAL FROM THE INDIVIDUAL'S UNLAWFUL USE OF A CONTROLLED
9 DANGEROUS SUBSTANCE; OR

10 (3) ~~COURT COSTS AND REASONABLE ATTORNEY'S FEES, INCLUDING~~
11 ~~REASONABLE EXPENSES FOR EXPERT TESTIMONY.~~

12 3-1607.

13 ~~A THIRD PARTY MAY NOT PAY DAMAGES AWARDED UNDER THIS SUBTITLE,~~
14 ~~PROVIDE A DEFENSE, OR PROVIDE MONEY FOR A DEFENSE ON BEHALF OF AN~~
15 ~~INSURED UNDER A CONTRACT OF INSURANCE OR INDEMNIFICATION.~~

16 A DEFENDANT IN AN ACTION UNDER THIS SUBTITLE MAY NOT RAISE A
17 DEFENSE OF ASSUMPTION OF RISK OR CONTRIBUTORY NEGLIGENCE BASED ON THE
18 USE OF A CONTROLLED DANGEROUS SUBSTANCE BY THE DECEASED INDIVIDUAL.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
20 construed only prospectively and may not be applied or interpreted to have any effect
21 on or application to any civil action for damages for the death of an individual from
22 the use, before the effective date of this Act, of a controlled dangerous substance.

23 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take
24 effect October 1, 2000.