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By: **Delegates Griffith and Vallario**  
Introduced and read first time: January 19, 2001  
Assigned to: Judiciary

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: February 13, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure - Distribution of Noncontrolled Substance -**  
3 **Jurisdiction of Trial Courts**

4 FOR the purpose of providing that the District Court has ~~exclusive jurisdiction in a~~  
5 ~~criminal case involving distribution of a noncontrolled substance representing~~  
6 ~~that the substance is a controlled dangerous substance under certain~~  
7 ~~circumstances; providing that the jurisdiction of the District Court that is~~  
8 concurrent with a circuit court in criminal cases involving distribution of a  
9 noncontrolled substance representing that the substance is a controlled  
10 dangerous substance under certain circumstances; and generally relating to the  
11 criminal jurisdiction of the District Court and a circuit court.

12 BY repealing and reenacting, without amendments,  
13 Article 27 - Crimes and Punishments  
14 Section 286B  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume and 2000 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article - Courts and Judicial Proceedings  
19 Section 4-301(b) and 4-302(a) and (d)(1)  
20 Annotated Code of Maryland  
21 (1998 Replacement Volume and 2000 Supplement)

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

**Article 27 - Crimes and Punishments**

286B.

For purposes of this section,

(a) (1) "Noncontrolled substance" means any substance not classified as a controlled dangerous substance by State law or regulation.

(2) "Distribute" means the actual, constructive, or attempted transfer, exchange, or delivering of a noncontrolled substance, other than by dispensing, from one person to another with or without remuneration, whether or not there exists an agency relationship.

(b) A person may not distribute, attempt to distribute, or possess with intent to distribute, a noncontrolled substance upon the representation that the substance is a controlled dangerous substance.

(c) It is unlawful for a person to distribute, attempt to distribute, or possess with intent to distribute, any noncontrolled substance intended by that person for use or distribution as a controlled dangerous substance or under circumstances where one reasonably should know that the noncontrolled substance will be used or distributed for use as a controlled dangerous substance.

(d) For the purpose of determining whether this section has been violated, the court or other authority shall include in its consideration the following:

(1) Whether the noncontrolled substance was packaged in a manner normally used for the illegal distribution of controlled substances;

(2) Whether the distribution or attempted distribution included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable value of the noncontrolled substance;

(3) Whether the physical appearance of the noncontrolled substance is substantially identical to that of a controlled dangerous substance.

(e) In any prosecution brought under this section, it is not a defense to a violation of this section that the defendant believed the noncontrolled substance to actually be a controlled dangerous substance.

(f) Any person who violates the provisions of this section with respect to the distribution, attempt to distribute, or possession with intent to distribute a noncontrolled substance as a controlled dangerous substance, is guilty of a felony and, upon conviction, is subject to imprisonment for not more than 5 years, or a fine of not more than \$15,000 or both.

1 **Article - Courts and Judicial Proceedings**

2 4-301.

3 (b) Except as provided in § 4-302 of this subtitle, the District Court also has  
4 exclusive original jurisdiction in a criminal case in which a person at least 18 years  
5 old or a corporation is charged with:

6 (1) Commission of a common-law or statutory misdemeanor regardless  
7 of the amount of money or value of the property involved;

8 (2) Violation of §§ 342 through 344 of Article 27 of the Code, whether a  
9 felony or a misdemeanor;

10 (3) Violation of a county, municipal, or other ordinance, if the violation is  
11 not a felony;

12 (4) Criminal violation of a State, county, or municipal rule or regulation,  
13 if the violation is not a felony;

14 (5) Doing or omitting to do any act made punishable by a fine,  
15 imprisonment, or other penalty as provided by the particular law, ordinance, rule, or  
16 regulation defining the violation if the violation is not a felony;

17 (6) Violation of Article 27, § 141 of this Code, whether a felony or a  
18 misdemeanor;

19 (7) Violation of Article 27, § 145 of this Code, whether a felony or  
20 misdemeanor;

21 (8) Violation of Article 27, § 44 of the Code;

22 (9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a  
23 felony or a misdemeanor;

24 (10) Violation of § 9-1106 of the Labor and Employment Article;

25 (11) Violation of § 14-1403 of the Commercial Law Article;

26 (12) Violation of Article 27, § 388 of the Code;

27 (13) Violation of Article 27, § 388A of the Code; [or]

28 (14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;

29 OR

30 (15) VIOLATION OF ARTICLE 27, § 286B OF THE CODE.

1 4-302.

2 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),  
3 [and] (14), AND (15) of this subtitle, the District Court does not have jurisdiction to  
4 try a criminal case charging the commission of a felony.

5 (d) (1) Except as provided in paragraph (2) of this subsection, the  
6 jurisdiction of the District Court is concurrent with that of the circuit court in a  
7 criminal case:

8 (i) In which the penalty may be confinement for [three] 3 years or  
9 more or a fine of \$2,500 or more; or

10 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),  
11 (10), (11), (12), (13), [and] (14), AND (15) of this subtitle.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2001.