
By: **Delegates Gaines and Vallario**
Introduced and read first time: January 29, 2002
Assigned to: Judiciary

A BILL ENTITLED

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 jurisdiction that is
5 concurrent with a circuit court in criminal cases involving distribution of a
6 noncontrolled substance representing that the substance is a controlled
7 dangerous substance under certain circumstances; and generally relating to the
8 criminal jurisdiction of the District Court and a circuit court.

9 BY repealing and reenacting, without amendments,
10 Article - Criminal Law
11 Section 5-617
12 Annotated Code of Maryland
13 (As enacted by Chapter _____ (H.B. 11) of the Acts of the General Assembly of
14 2002)

15 BY repealing and reenacting, with amendments,
16 Article - Courts and Judicial Proceedings
17 Section 4-301(b) and 4-302(a) and (d)(1)
18 Annotated Code of Maryland
19 (1998 Replacement Volume and 2001 Supplement)

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

22 **Article - Criminal Law**

23 5-617.

24 (a) A person may not distribute, attempt to distribute, or possess with intent
25 to distribute a noncontrolled substance:

26 (1) that the person represents as a controlled dangerous substance;

1 (2) that the person intends for use or distribution as a controlled
2 dangerous substance; or

3 (3) under circumstances where one reasonably should know that the
4 noncontrolled substance will be used or distributed for use as a controlled dangerous
5 substance.

6 (b) To determine if a person has violated this section, the court or other
7 authority shall include in its consideration:

8 (1) whether the noncontrolled substance was packaged in a manner
9 normally used to distribute a controlled dangerous substance illegally;

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

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

16 (c) A person who violates that section is guilty of a felony and on conviction is
17 subject to imprisonment not exceeding 5 years or a fine not exceeding \$15,000 or both.

18 (d) It is not a defense to a prosecution under this section that the defendant
19 believed that the noncontrolled substance was a controlled dangerous substance.

20

Article - Courts and Judicial Proceedings

21 4-301.

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

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

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

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

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

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

- 1 (6) Violation of Article 27, § 141 of this Code, whether a felony or a
2 misdemeanor;
- 3 (7) Violation of Article 27, § 145 of this Code, whether a felony or
4 misdemeanor;
- 5 (8) Violation of Article 27, § 44 of the Code;
- 6 (9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a
7 felony or a misdemeanor;
- 8 (10) Violation of § 9-1106 of the Labor and Employment Article;
- 9 (11) Violation of § 14-1403 of the Commercial Law Article;
- 10 (12) Violation of Article 27, § 388 of the Code;
- 11 (13) Violation of Article 27, § 388A of the Code;
- 12 (14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;
- 13 (15) Violation of Article 27, § 59 of the Code, whether felony or
14 misdemeanor; [or]
- 15 (16) Violation of Article 27, § 194A of the Code, whether a felony or
16 misdemeanor; OR
- 17 (17) VIOLATION OF § 5-617 OF THE CRIMINAL LAW ARTICLE.

18 4-302.

19 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),
20 (14), (15), [and] (16), AND (17) of this subtitle, the District Court does not have
21 jurisdiction to try a criminal case charging the commission of a felony.

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

25 (i) In which the penalty may be confinement for 3 years or more or
26 a fine of \$2,500 or more; or

27 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
28 (10), (11), (12), (13), (14), (15), [and] (16), AND (17) of this subtitle.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2002.