**Unofficial Copy** HB 419/02 - JUD 2003 Regular Session 3lr0774

By: Delegates Kelley, Vallario, Anderson, Benson, Brown, Carter, Frush, Gaines, Moe, Niemann, Patterson, Petzold, Ramirez, and V. Turner Introduced and read first time: January 24, 2003

Assigned to: Judiciary

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24 to distribute a noncontrolled substance:

(1)

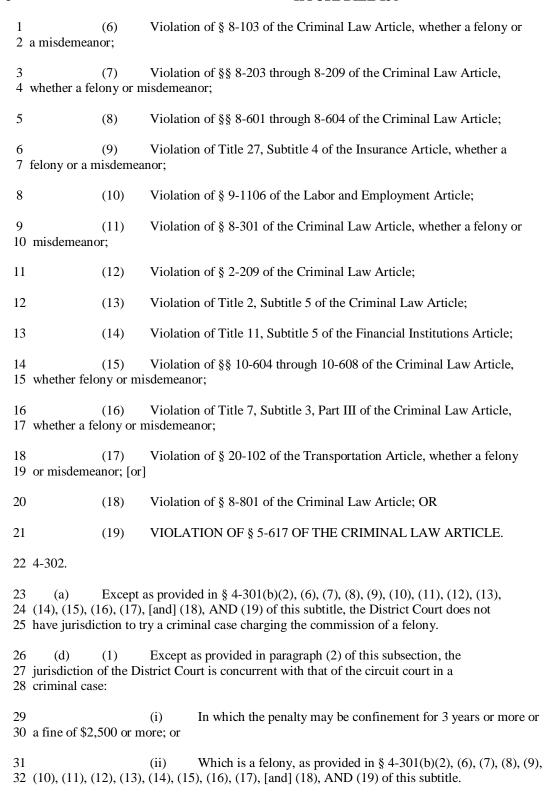
	A BILL ENTITLED
1	AN ACT concerning
2	Criminal Procedure - Distribution of Noncontrolled Substance - Jurisdiction of Trial Courts
4 5 6 7 8	FOR the purpose of providing that the District Court has jurisdiction that is concurrent with a circuit court in criminal cases involving distribution of a noncontrolled substance representing that the substance is a controlled dangerous substance under certain circumstances; and generally relating to the criminal jurisdiction of the District Court and a circuit court.
9 10 11 12	Section 5-617 Annotated Code of Maryland
14 15 16 17	Section 4-301(b) and 4-302(a) and (d)(1) Annotated Code of Maryland
19 20	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
21	Article - Criminal Law
22	5-617.

A person may not distribute, attempt to distribute, or possess with intent

that the person represents as a controlled dangerous substance;

1 that the person intends for use or distribution as a controlled (2) 2 dangerous substance; or 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. To determine if a person has violated this section, the court or other 6 (b) 7 authority shall include in its consideration: 8 whether the noncontrolled substance was packaged in a manner (1) 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 whether the physical appearance of the noncontrolled substance is (3) 15 substantially identical to that of a controlled dangerous substance. A person who violates this section is guilty of a felony and on conviction is 16 subject to imprisonment not exceeding 5 years or a fine not exceeding \$15,000 or both. 17 18 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 Commission of a common-law or statutory misdemeanor regardless (1) 26 of the amount of money or value of the property involved; Violation of § 7-104, § 7-105, § 7-107, or § 7-108 of the Criminal Law 27 (2)28 Article, whether a felony or a misdemeanor; Violation of a county, municipal, or other ordinance, if the violation is 29 (3) 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;

## **HOUSE BILL 138**



- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 2 October 1, 2003.