

HOUSE BILL 138

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HB 419/02 - JUD

2003 Regular Session  
3r0774

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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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Committee Report: Favorable

House action: Adopted

Read second time: February 11, 2003

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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 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 (2002 Volume)

14 BY repealing and reenacting, with amendments,  
15 Article - Courts and Judicial Proceedings  
16 Section 4-301(b) and 4-302(a) and (d)(1)  
17 Annotated Code of Maryland  
18 (2002 Replacement Volume)

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

1

**Article - Criminal Law**

2 5-617.

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

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

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

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

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

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

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

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

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

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

25

**Article - Courts and Judicial Proceedings**

26 4-301.

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

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

32 (2) Violation of § 7-104, § 7-105, § 7-107, or § 7-108 of the Criminal Law  
33 Article, whether a felony or a misdemeanor;

- 1 (3) Violation of a county, municipal, or other ordinance, if the violation is  
2 not a felony;
- 3 (4) Criminal violation of a State, county, or municipal rule or regulation,  
4 if the violation is not a felony;
- 5 (5) Doing or omitting to do any act made punishable by a fine,  
6 imprisonment, or other penalty as provided by the particular law, ordinance, rule, or  
7 regulation defining the violation if the violation is not a felony;
- 8 (6) Violation of § 8-103 of the Criminal Law Article, whether a felony or  
9 a misdemeanor;
- 10 (7) Violation of §§ 8-203 through 8-209 of the Criminal Law Article,  
11 whether a felony or misdemeanor;
- 12 (8) Violation of §§ 8-601 through 8-604 of the Criminal Law Article;
- 13 (9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a  
14 felony or a misdemeanor;
- 15 (10) Violation of § 9-1106 of the Labor and Employment Article;
- 16 (11) Violation of § 8-301 of the Criminal Law Article, whether a felony or  
17 misdemeanor;
- 18 (12) Violation of § 2-209 of the Criminal Law Article;
- 19 (13) Violation of Title 2, Subtitle 5 of the Criminal Law Article;
- 20 (14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;
- 21 (15) Violation of §§ 10-604 through 10-608 of the Criminal Law Article,  
22 whether felony or misdemeanor;
- 23 (16) Violation of Title 7, Subtitle 3, Part III of the Criminal Law Article,  
24 whether a felony or misdemeanor;
- 25 (17) Violation of § 20-102 of the Transportation Article, whether a felony  
26 or misdemeanor; [or]
- 27 (18) Violation of § 8-801 of the Criminal Law Article; OR
- 28 (19) VIOLATION OF § 5-617 OF THE CRIMINAL LAW ARTICLE.
- 29 4-302.

30 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),  
31 (14), (15), (16), (17), [and] (18), AND (19) of this subtitle, the District Court does not  
32 have jurisdiction to try a criminal case charging the commission of a felony.

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

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

6 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),  
7 (10), (11), (12), (13), (14), (15), (16), (17), [and] (18), AND (19) of this subtitle.

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