

# HOUSE BILL 372

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6lr1382

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By: **Charles County Delegation**

Introduced and read first time: January 28, 2016

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Synthetic Drugs – Penalties**

3 FOR the purpose of prohibiting a person from purchasing, using, or possessing certain  
4 synthetic drugs; prohibiting a person from distributing certain synthetic drugs under  
5 certain circumstances; providing certain factors to be considered when determining  
6 whether a product is being distributed as a certain synthetic drug; establishing  
7 penalties for a violation of this Act; providing that a person who violates this Act  
8 shall be ordered to pay certain administrative fees and costs; providing that property  
9 seized in connection with enforcement of this Act is subject to forfeiture in accordance  
10 with certain provisions of law; providing for the application of this Act; defining  
11 certain terms; and generally relating to synthetic drugs.

12 BY adding to

13 Article – Criminal Law

14 Section 5–711

15 Annotated Code of Maryland

16 (2012 Replacement Volume and 2015 Supplement)

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

19 **Article – Criminal Law**

20 **5–711.**

21 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**  
22 **INDICATED.**

23 **(2) “DISTRIBUTE” MEANS TO:**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (I) GIVE, SELL, DELIVER, DISPENSE, OR ISSUE;

2 (II) OFFER TO GIVE, SELL, DELIVER, DISPENSE, OR ISSUE; OR

3 (III) CAUSE OR HIRE ANOTHER PERSON TO GIVE, SELL, DELIVER,  
4 DISPENSE, OR ISSUE.

5 (3) (I) "SYNTHETIC DRUG" MEANS A PRODUCT DISTRIBUTED WITH  
6 THE INTENT THAT IT BE USED AS A RECREATIONAL DRUG, SUCH THAT ITS  
7 CONSUMPTION OR INGESTION IS INTENDED TO PRODUCE EFFECTS ON THE CENTRAL  
8 NERVOUS SYSTEM OR BRAIN FUNCTION TO CHANGE PERCEPTION, MOOD,  
9 CONSCIOUSNESS, COGNITION, OR BEHAVIOR IN WAYS THAT ARE SIMILAR TO THE  
10 EFFECTS OF MARIJUANA, COCAINE, AMPHETAMINES, OR OTHER SCHEDULE I  
11 NARCOTICS.

12 (II) "SYNTHETIC DRUG" INCLUDES:

13 1. PRODUCTS KNOWN AS BATH SALTS; AND

14 2. SYNTHETIC MARIJUANA.

15 (4) (I) "SYNTHETIC MARIJUANA" MEANS A PSYCHOACTIVE  
16 DESIGNER DRUG, CANNABIMIMETIC AGENT, OR SYNTHETIC CANNABINOID SPRAYED  
17 ON NATURAL HERBS, INCENSE, OR OTHER DRIED LEAFY PLANT MATERIAL THAT  
18 WHEN CONSUMED OR INGESTED MIMICS THE INTOXICATING EFFECTS OF  
19 MARIJUANA.

20 (II) "SYNTHETIC MARIJUANA" INCLUDES ANY COMPOUND,  
21 MIXTURE, OR PREPARATION THAT WOULD BE REASONABLY INDICATED UNDER ALL  
22 THE CIRCUMSTANCES TO BE MARIJUANA OR SYNTHETIC MARIJUANA.

23 (B) THIS SECTION DOES NOT APPLY TO AN ACCREDITED ACADEMIC OR  
24 MEDICAL INSTITUTION OR RESEARCH FACILITY OR AN AUTHORIZED AGENT OF THE  
25 INSTITUTION OR FACILITY THAT CONDUCTS RESEARCH ON SYNTHETIC DRUGS.

26 (C) (1) A PERSON MAY NOT PURCHASE, USE, OR POSSESS A SYNTHETIC  
27 DRUG.

28 (2) A PERSON MAY NOT DISTRIBUTE A PRODUCT:

29 (I) THAT THE PERSON REPRESENTS IS A SYNTHETIC DRUG;

1                   **(II) THAT THE PERSON INTENDS FOR USE OR DISTRIBUTION AS**  
2 **A SYNTHETIC DRUG; OR**

3                   **(III) UNDER CIRCUMSTANCES IN WHICH THE PERSON**  
4 **REASONABLY KNOWS THE PRODUCT WILL BE USED OR DISTRIBUTED AS A**  
5 **SYNTHETIC DRUG.**

6           **(D) THE FOLLOWING FACTORS SHALL BE CONSIDERED WHEN DETERMINING**  
7 **WHETHER A PRODUCT IS BEING DISTRIBUTED WITH THE INTENT OR KNOWLEDGE**  
8 **THAT IT BE USED AS A RECREATIONAL DRUG:**

9                   **(1) THE PRODUCT IS NOT SUITABLE FOR ITS MARKETED USE;**

10                   **(2) THE PERSON PROVIDING, DISTRIBUTING, DISPLAYING, OR**  
11 **SELLING THE PRODUCT DOES NOT TYPICALLY PROVIDE, DISTRIBUTE, OR SELL**  
12 **PRODUCTS THAT ARE USED FOR THAT PRODUCT'S MARKETED USE;**

13                   **(3) THE PRODUCT CONTAINS A WARNING LABEL THAT IS NOT**  
14 **TYPICALLY PRESENT ON PRODUCTS THAT ARE USED FOR THAT PRODUCT'S**  
15 **MARKETED USE, INCLUDING "NOT FOR HUMAN CONSUMPTION", "NOT FOR**  
16 **PURCHASE BY MINORS", "MUST BE 18 YEARS OR OLDER TO PURCHASE", "100%**  
17 **LEGAL BLEND", OR SIMILAR STATEMENTS;**

18                   **(4) THE PRODUCT IS SIGNIFICANTLY MORE EXPENSIVE THAN**  
19 **PRODUCTS THAT ARE USED FOR THAT PRODUCT'S MARKETED USE; OR**

20                   **(5) THE PRODUCT RESEMBLES AN ILLICIT STREET DRUG.**

21           **(E) (1) A PERSON WHO VIOLATES SUBSECTION (C)(1) OF THIS SECTION IS**  
22 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT**  
23 **NOT EXCEEDING 60 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH.**

24                   **(2) A PERSON WHO VIOLATES SUBSECTION (C)(2) OF THIS SECTION IS**  
25 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT**  
26 **NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.**

27                   **(3) A PERSON WHO VIOLATES THIS SECTION SHALL BE ORDERED TO**  
28 **PAY ALL ADMINISTRATIVE FEES AND COSTS TO THE DESIGNATED LAW**  
29 **ENFORCEMENT AGENCY FOR THE CHEMICAL TESTING OF THE SUBSTANCE**  
30 **COLLECTED AS EVIDENCE AND ANY OTHER COSTS ARISING FROM THE TESTING.**

1                   **(4) PROPERTY SEIZED IN CONNECTION WITH ENFORCEMENT OF THIS**  
2 **SECTION IS SUBJECT TO FORFEITURE IN ACCORDANCE WITH TITLE 12 OF THE**  
3 **CRIMINAL PROCEDURE ARTICLE.**

4                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 2016.