

# HOUSE BILL 687

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EMERGENCY BILL

7lr0169  
CF SB 539

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By: **The Speaker (By Request – Administration) and Delegates Afzali, Anderton, Arentz, Aumann, Buckel, Carozza, Cassilly, Clark, Cluster, Fisher, Flanagan, Folden, Ghrist, Glass, Grammer, Hornberger, Jacobs, Kipke, Kittleman, Krebs, Long, Malone, Mautz, McComas, McDonough, McKay, McMillan, Metzgar, Miele, Morgan, Otto, Parrott, Reilly, Rey, Rose, Saab, Shoemaker, Simonaire, Szeliga, Vogt, West, and B. Wilson**

Introduced and read first time: February 1, 2017

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Distribution of Opioids Resulting in Death**

3 FOR the purpose of prohibiting a person from distributing certain opioids or opioid  
4 analogues, the use of which causes the death of another, with a certain exception;  
5 establishing penalties for a violation of this Act; providing that it is not a defense  
6 under this Act that the defendant did not distribute the opioid or opioid analogue  
7 directly to the decedent; providing that a person who, in good faith, seeks, provides,  
8 or assists with the provision of medical assistance for a person experiencing a  
9 medical emergency after using an opioid or opioid analogue shall be immune from  
10 criminal prosecution for a violation of this Act if the evidence for the criminal  
11 prosecution was obtained in a certain manner; establishing that certain actions do  
12 not constitute distribution for a certain purpose; providing that it is a defense under  
13 this Act that the defendant was an active user of an opioid or opioid analogue at the  
14 time of the distribution causing the death of the decedent; providing that a sentence  
15 imposed under this Act shall be separate from and consecutive to a certain other  
16 sentence; defining certain terms; making this Act an emergency measure; and  
17 generally relating to distribution of opioids or opioid analogues.

18 BY adding to

19 Article – Criminal Law

20 Section 5–602.1

21 Annotated Code of Maryland

22 (2012 Replacement Volume and 2016 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

24 That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Article – Criminal Law

## 5-602.1.

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

(2) “OPIOID” MEANS A CONTROLLED DANGEROUS SUBSTANCE LISTED IN § 5-402(B) OR (C) OR § 5-403(B)(1) OR (3)(I) OR (II) OR (C) OF THIS TITLE.

(3) (I) “OPIOID ANALOGUE” MEANS A SUBSTANCE:

1. THAT HAS A CHEMICAL STRUCTURE SIMILAR TO THE CHEMICAL STRUCTURE OF AN OPIOID; AND

2. THAT HAS A STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT ON THE CENTRAL NERVOUS SYSTEM THAT IS SUBSTANTIALLY SIMILAR TO OR GREATER THAN THE STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT OF AN OPIOID ON THE CENTRAL NERVOUS SYSTEM.

(II) “OPIOID ANALOGUE” DOES NOT INCLUDE:

1. A CONTROLLED DANGEROUS SUBSTANCE;

2. A SUBSTANCE FOR WHICH THERE IS AN APPROVED NEW DRUG APPLICATION; OR

3. A SUBSTANCE APPROVED FOR INVESTIGATIONAL USE UNDER § 506 OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT DISTRIBUTE AN OPIOID OR OPIOID ANALOGUE, THE USE OF WHICH CAUSES THE DEATH OF ANOTHER.

(C) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 YEARS.

(D) IT IS NOT A DEFENSE UNDER THIS SECTION THAT THE DEFENDANT DID NOT DISTRIBUTE THE OPIOID OR OPIOID ANALOGUE DIRECTLY TO THE DECEDENT.

(E) A PERSON WHO, IN GOOD FAITH, SEEKS, PROVIDES, OR ASSISTS WITH THE PROVISION OF MEDICAL ASSISTANCE FOR A PERSON EXPERIENCING A MEDICAL

1 EMERGENCY AFTER USING AN OPIOID OR OPIOID ANALOGUE SHALL BE IMMUNE  
2 FROM CRIMINAL PROSECUTION FOR A VIOLATION OF THIS SECTION IF THE  
3 EVIDENCE FOR THE CRIMINAL PROSECUTION WAS OBTAINED SOLELY AS A RESULT  
4 OF THE PERSON'S SEEKING, PROVIDING, OR ASSISTING WITH THE PROVISION OF  
5 MEDICAL ASSISTANCE.

6 (F) FOR THE PURPOSES OF THIS SECTION, THE SHARING OF AN OPIOID OR  
7 OPIOID ANALOGUE WITHOUT REMUNERATION OR THE EXCHANGE OF GOODS OR  
8 SERVICES DOES NOT CONSTITUTE DISTRIBUTION.

9 (G) IT IS A DEFENSE UNDER THIS SECTION THAT THE DEFENDANT WAS AN  
10 ACTIVE USER OF AN OPIOID OR OPIOID ANALOGUE AT THE TIME OF THE  
11 DISTRIBUTION CAUSING THE DEATH OF THE DECEDENT.

12 (H) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE SEPARATE FROM  
13 AND CONSECUTIVE TO A SENTENCE FOR ANY CRIME BASED ON THE ACT  
14 ESTABLISHING A VIOLATION OF THIS SECTION.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
16 measure, is necessary for the immediate preservation of the public health or safety, has  
17 been passed by a ye and nay vote supported by three-fifths of all the members elected to  
18 each of the two Houses of the General Assembly, and shall take effect from the date it is  
19 enacted.