

the word "distribute" only for § 286B, is deleted as duplicative of the defined term "distribute", which is defined for this entire title in § 5-101 of this title.

The Criminal Law Article Review Committee notes, for the consideration of the General Assembly, that in subsection (b) of this section, the meaning of the reference to some "other authority" that would make a determination under this section is unclear. It may refer to a licensing authority under § 5-810 of this title, or to some other unit. The parallel provision of § 5-618 of this subtitle refers only to a determination by a "court". The General Assembly may wish to consider reconciling this section and § 5-618 of this subtitle.

Defined terms: "Controlled dangerous substance" § 5-101

"Distribute" § 5-101

"Noncontrolled substance" § 1-101

"Person" § 1-101

"Possess" § 5-101

5-618. POSSESSION OR PURCHASE OF NONCONTROLLED SUBSTANCE.

(A) IN GENERAL.

EXCEPT AS AUTHORIZED IN THIS TITLE, A PERSON MAY NOT POSSESS OR PURCHASE A NONCONTROLLED SUBSTANCE THAT THE PERSON REASONABLY BELIEVES IS A CONTROLLED DANGEROUS SUBSTANCE.

(B) CONSIDERATIONS.

TO DETERMINE IF A PERSON HAS VIOLATED THIS SECTION, THE COURT SHALL INCLUDE IN ITS CONSIDERATION:

(1) WHETHER THE NONCONTROLLED SUBSTANCE WAS PACKAGED IN A MANNER NORMALLY USED TO ILLEGALLY DISTRIBUTE A CONTROLLED DANGEROUS SUBSTANCE;

(2) IF THE NONCONTROLLED SUBSTANCE WAS PURCHASED, WHETHER THE AMOUNT OF THE CONSIDERATION WAS SUBSTANTIALLY GREATER THAN THE REASONABLE VALUE OF THE NONCONTROLLED SUBSTANCE; AND

(3) WHETHER THE PHYSICAL APPEARANCE OF THE NONCONTROLLED SUBSTANCE IS SUBSTANTIALLY IDENTICAL TO THAT OF A CONTROLLED DANGEROUS SUBSTANCE.

(C) REASONABLE BELIEF NOT A DEFENSE.

IT IS NOT A DEFENSE TO A PROSECUTION UNDER THIS SECTION THAT THE SUBSTANCE A PERSON POSSESSED OR PURCHASED WAS NOT A CONTROLLED DANGEROUS SUBSTANCE IF THE PERSON REASONABLY BELIEVED THAT IT WAS A CONTROLLED DANGEROUS SUBSTANCE.

(D) PENALTY.