

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 1149 (Delegate Costa)
Health and Government Operations

Pharmacies - Delivery of Controlled Dangerous Substances

This bill requires an adult to sign for the residential delivery of a prescription drug that is listed on Schedule II as a controlled dangerous substance. The bill's provisions do not apply to a pharmacy servicing a nursing facility or owned and operated by a hospital, nursing facility, or clinic to which the public does not have access to purchase pharmaceuticals on a retail basis.

Fiscal Summary

State Effect: None. The change is technical in nature and does not directly affect governmental finances.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: Controlled dangerous substances are listed on one of five schedules set forth in statute. No distinction is made in State law regarding the illegal possession of any controlled dangerous substance, regardless of which schedule it is on, with the exception of marijuana. When the substance is marijuana, the maximum criminal penalties for a violation are one-year imprisonment and/or a \$1,000 fine.

Controlled dangerous substances do not include distilled spirits, wine, malt beverages, or tobacco.

According to the federal Controlled Substances Act, in order to be classified as Schedule II, a substance must have a high potential for abuse and it must be the case that abuse of the drug or substance may lead to severe psychological or physical dependence. Additionally, the drug or other substance must have a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions. Morphine, methadone, and amphetamines (such as Adderall) are examples of Schedule II drugs.

When a prescription drug is delivered by U.S. mail, a common carrier, or a delivery service and is not personally hand delivered to a patient or to the agent of the patient, a general written notice must be provided in each shipment of the prescription drug alerting the consumer that, under certain circumstances, the medication's effectiveness may be affected by exposure to extreme heat, cold, or humidity. In addition, a notice must also include a toll-free or local consumer access telephone number to respond to consumer questions pertaining to medications.

The Division of Drug Control (DDC), Laboratories Administration within the Department of Health and Mental Hygiene inspects pharmacies every three years during its controlled dangerous substances inspection. In addition, the State Board of Pharmacy annually inspects pharmacies to ensure that proper sanitation and operating practices are in place.

Of the 1,249 pharmacies in the State, it is unknown how many fill mail orders.

State Fiscal Effect: Since both DDC and the board currently inspect pharmacies, expenditures and revenues are unaffected by the bill's provisions. However, the board has to change its inspection forms and database to reflect whether inspectors have reviewed documentation for controlled dangerous substance prescriptions that are delivered to a residence. This change is technical in nature and does not affect board finances.

Additional Information

Prior Introductions: SB 662 of 2010, as amended, passed the Senate but received an unfavorable report from the House Health and Government Operations Committee. HB 1381, its cross file, received an unfavorable report from the House Health and Government Operations Committee.

Cross File: SB 700 (Senator Klausmeier) - Education, Health, and Environmental Affairs.

Information Source(s): U.S. Drug Enforcement Agency, Department of Health and Mental Hygiene, Department of Legislative Services

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