

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 610  
Finance

(Senator Benson, *et al.*)

Judiciary

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**Crimes - Sale of Drug Paraphernalia to a Minor - Local Law Authorizing  
Business License Revocation for a Second or Subsequent Violation**

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This bill authorizes the governing body of a county or municipal corporation to adopt a local law that authorizes the revocation or nonrenewal of a business license or permit issued by the county or municipal corporation when an employee of an establishment commits a second or subsequent violation of the prohibition on the sale or delivery of drug paraphernalia to a minor and the violations occurred on the property of the business establishment.

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**Fiscal Summary**

**State Effect:** The bill is not expected to materially affect State finances.

**Local Effect:** The bill is not expected to materially affect local finances.

**Small Business Effect:** Potential meaningful impact on small businesses whose licenses or permits are revoked or not renewed under local laws adopted as a result of the bill.

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**Analysis**

**Current Law:** Unless authorized under law, a person may not deliver or sell, or manufacture or possess with the intent to deliver or sell, drug paraphernalia, knowing or under circumstances where a person reasonably should know, that the drug paraphernalia will be used to:

- plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled dangerous substance; or
- inject, ingest, inhale, or otherwise introduce into the human body a controlled dangerous substance.

Violators are guilty of a misdemeanor and are subject to maximum penalties of (1) a \$500 fine for a first violation; and (2) imprisonment for two years and/or a \$2,000 fine for subsequent violations.

If a defendant is a first-time offender but was previously convicted when he/she was at least 18 years old of delivering drug paraphernalia to a minor who was at least three years younger, the person is subject to maximum penalties of imprisonment for two years and/or a fine of \$2,000.

A person who is at least 18 years old and delivers drug paraphernalia to a minor who is at least three years younger is guilty of a misdemeanor and subject to imprisonment for up to eight years and/or a maximum fine of \$15,000.

Regarding drug paraphernalia related to marijuana, the defendant may introduce and the court must consider as a mitigating factor any evidence of medical necessity. If the court finds that the person used or possessed drug paraphernalia related to marijuana because of medical necessity, on conviction, the maximum penalty that the court may impose is a \$100 fine.

Pursuant to Chapter 215 of 2011, in a prosecution for the use or possession of marijuana or related paraphernalia, it is an affirmative defense that the defendant used or possessed marijuana or related paraphernalia because (1) the defendant has a debilitating medical condition that has been diagnosed by a physician with whom the defendant has a bona fide physician-patient relationship (*i.e.*, a relationship in which the physician has an ongoing responsibility for the assessment, care, and treatment of a patient's medical condition); (2) the debilitating medical condition is severe and resistant to conventional medicine; and (3) marijuana is likely to provide the defendant with therapeutic or palliative relief from the debilitating medical condition. The affirmative defense may not be used if the defendant was either using marijuana in a public place or in possession of more than one ounce of marijuana.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore, Carroll, Cecil, Harford, Montgomery, and St. Mary's counties; Judiciary (Administrative Office of the Courts); Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2012  
mlm/kdm

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