

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 415 (Delegates O'Donnell and Kelly)
 Health and Government Operations

Cedar Hope Chests - Prohibition on Manufacture, Import, and Sale (McKenna's Law)

This bill prohibits the importation, sale, or offer or manufacturing for sale of a “cedar hope chest” with a lid latch that locks automatically when the lid is closed and cannot be unlocked from the inside; such a chest must also have a design identified by the U.S. Consumer Product Safety Commission (CPSC) as presenting a risk of suffocation death to children who could become trapped inside. The bill establishes civil penalties and gives courts authority to enjoin an action prohibited by the bill. The Department of Health and Mental Hygiene (DHMH) must develop a public awareness campaign about the dangers of cedar hope chests as well as adopt regulations necessary to implement the bill.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill’s penalty provisions for those cases heard in the District Court. General fund expenditures increase by \$50,020 in FY 2016 for DHMH’s Prevention and Health Promotion Administration to implement the bill. Future year expenditures reflect annualization, inflation, and phasing out of the contractual employee by FY 2019.

| (in dollars) | FY 2016 | FY 2017 | FY 2018 | FY 2019 | FY 2020 |
|----------------|------------|------------|------------|---------|---------|
| Revenues | \$0 | \$0 | \$0 | \$0 | \$0 |
| GF Expenditure | 50,000 | 52,700 | 34,400 | - | - |
| Net Effect | (\$50,000) | (\$52,700) | (\$34,400) | \$0 | \$0 |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The circuit courts can handle any injunction cases that may be diverted to them. Enforcement can be handled with existing resources, assuming that enforcement is complaint based.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The civil penalty provisions of the bill do not apply to the sale or distribution of a cedar hope chest that is resold, offered for resale, or distributed by a consumer for consumer use.

Current Law/Background: There are no prohibitions against these types of products. On March 5, 2014, CPSC reissued a warning regarding storage and toy chests that have automatic locks and/or do not have lid supports to keep the lid open in every position. At that time, CPSC had received reports of 34 deaths since 1996 involving children younger than 18. Approximately 27 companies have taken action to correct more than 14 million toy and storage chests that posed a suffocation, strangulation, or injury risk.

State Expenditures: General fund expenditures for DHMH increase by \$50,020 in fiscal 2016, which accounts for the bill's October 1, 2015 effective date.

DHMH has determined that one regular full-time position is needed to implement this bill. However, the Department of Legislative Services advises that the added responsibilities due to this legislation are not likely to require permanent new staff and, thus, may be performed by a contractual employee. This estimate reflects the cost of hiring one full-time contractual program administrator to write regulations, develop the required public awareness campaign, conduct outreach and train local health departments, and enforce the prohibitions established in the bill. It includes a salary; fringe benefits; one-time start-up costs, including purchasing a field laptop with hardware and software; and ongoing operating expenditures, including printing educational materials and renting space for the new employee.

This analysis assumes that complaints are *de minimis* after fiscal 2018 because the bill's penalty provisions do not apply to consumer resale or distribution. Thus, the need for a full-time contractual position decreases to a part-time position in fiscal 2018 and phases out completely after fiscal 2018. However, to the extent that complaints remain high or that enforcement is not complaint based, DHMH may need to retain this position.

| | |
|----------------------------------|-----------------|
| Contractual Position | 1 |
| Salary and Fringe Benefits | \$36,912 |
| Operating Expenses | <u>13,108</u> |
| Total FY 2016 State Expenditures | \$50,020 |

Future year expenditures reflect a full salary in fiscal 2017, and a part-time contractual salary in fiscal 2018, with annual increases and employee turnover as well as annual increases in ongoing operating expenses. However, minimal general fund expenditures for DHMH continue in fiscal 2019 and 2020, and in future years, to continue the required public awareness program and enforcement, as needed. It is assumed that existing staff can absorb these duties at that time.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

DHMH advises that, because local health departments are seldom in the retail facilities that sell the items prohibited in the bill, it would significantly add to already heavy workloads if local health departments were *solely* responsible for enforcing the bill's prohibitions. Instead, the contractual program administrator can coordinate and respond to complaints statewide. However, this analysis assumes that, with training, local health departments can assist in enforcement and that enforcement is complaint based. Additionally, many companies have voluntarily implemented safety design changes to these types of chests in light of the national CPSC warnings that have been promulgated and media attention surrounding this issue. Thus, the number of complaints under the bill is likely to be minimal.

Small Business Effect: Potential meaningful impact to the extent that small businesses have existing stock that does not comply with the bill's requirements, and they are unable to modify this stock or procure compliant chests.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), U.S. Consumer Product Safety Commission, Department of Legislative Services

Fiscal Note History: First Reader - February 22, 2015
min/ljm

Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510