

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Enrolled

House Bill 42 (Chair, Health and Government Operations
Committee)(By Request - Departmental - Health)

Health and Government Operations

Finance

Public Health - Public Health Services and Protections - Revisions

This departmental bill (1) aligns State law with federal law prohibiting the sale of tobacco products to all individuals younger than 21; (2) authorizes the Maryland Department of Health (MDH) to reallocate projected unspent funds awarded to a county for cancer prevention, education, screening, and treatment programs to another county, as specified; (3) shifts responsibility for the cost of emergency medical treatment for an abused or neglected child from MDH to the Governor’s Office of Crime Prevention and Policy (GOCPP); (4) repeals the requirement that the Secretary of Health appoint and convene an expert panel on child abuse and neglect; (5) alters requirements relating to the State Council on Child Abuse and Neglect (SCCAN); and (6) repeals a reporting requirement regarding specified counter-marketing and media efforts.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State operations or finances.

Local Effect: Some counties may be impacted from grant funding being reallocated, as discussed below.

Small Business Effect: MDH has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment.

Analysis

Bill Summary/Current Law:

Aligning State and Federal Law Regarding Age Restrictions on the Sale of Tobacco Products/Paraphernalia and Electronic Smoking Devices

Minimum Age: Chapter 396 of 2019 generally raised the minimum age for an individual to purchase tobacco products from 18 to 21, with specified exceptions for active-duty military at least age 18 who present valid military identification. Federal legislation, effective December 20, 2019, raised the federal minimum age for the purchase of tobacco products from 18 to 21 without exceptions.

The bill repeals the following exceptions relating to active-duty military ages 18 to 20:

- Under § 10-107 of the Criminal Law Article, a person who distributes tobacco products for commercial purposes may not distribute such products to an individual younger than 21, with an exception if the purchaser or recipient is an active-duty military member who is at least 18 years of age and presents valid military identification.
- Section 10-107 of the Criminal Law Article and § 24-307 of the Health-General Article prohibit a person who is not a distributor of tobacco products for commercial purposes from purchasing for or selling a tobacco product to an individual younger than 21 (or distributing tobacco paraphernalia to such an individual), with an exception if the individual is an active-duty military member who is at least 18 years of age and presents valid military identification.
- Under § 24-305 of the Health-General Article, a person may not sell, distribute, or offer for sale an electronic smoking device to an individual younger than 21, with an exception if the purchaser or recipient is an active-duty military member who is at least 18 years of age and presents valid military identification.
- Section 1-1203 of the Local Government Article prohibits a person in Carroll, Cecil, Garrett, or St. Mary's counties from distributing a tobacco product to an individual younger than 21, with an exception if the individual is an active-duty military member who is at least 18 years of age and presents valid military identification. A person in those counties is also prohibited from distributing cigarette rolling papers or a coupon redeemable for a tobacco product to an individual younger than 21, with an exception if the individual is an active-duty military member who is at least 18 years of age and presents valid military identification.

Penalties and Fines: Under current law, unless a specified exception applies, a person who violates one of the prohibitions set forth in § 10-107 of the Criminal Law Article or § 24-305 of the Health-General Article is guilty of a misdemeanor and, on conviction, is subject to specified fines. For a violation of § 1-1203 of the Local Government Article, a violator is subject to specified civil penalties, which vary depending on the county. It is a defense for a person charged with such violations that they examined the purchaser's or recipient's government-issued identification (including a driver's license) that positively identified the individual was at least 21 years old or at least 18 years of age and an active-duty member of the military.

The bill repeals the defense that a person examined a purchaser or recipient's government-issued identification that positively identified them as being at least 18 years of age and an active-duty member of the military.

Signage: Under current law, cigarette business licensees, including retailers, are required to post a sign in a location that is clearly visible to consumers stating that "no person under the age of 21 may be sold tobacco products without military identification." Under the bill, a posted sign must read "no person under the age of 21 may be sold tobacco products."

Authority to Reallocate Local Public Health Cancer Grants

Under current law, as part of the local public health component of MDH's Cancer Prevention, Education, Screening, and Treatment Program, MDH provides and administers grants to counties. Each year, MDH must distribute these grants based on specified allocation formulas. Any funds allocated to a county through a grant that are not spent by the end of the fiscal year revert to the Cigarette Restitution Fund (CRF). The bill authorizes MDH to reallocate projected unspent funds awarded to a county to another county as needed during the fiscal year in order to address unmet county funding, as defined under the program.

Responsibility for the Cost of Emergency Medical Treatment for Abused and Neglected Children

Under § 5-712 of the Criminal Law Article, a provider must examine or treat any child to determine the nature and extent of any abuse or neglect to the child if brought to the provider under specified circumstances. If a provider examines a child and determines that emergency medical treatment is needed, the provider may treat the child. MDH must pay for any emergency medical treatment. The child's parent or guardian is liable to MDH for the charges and must take any steps necessary to secure health benefits available for the child from a public or private benefit program.

The bill transfers responsibility for payment for emergency medical treatment for an abused or neglected child from MDH to GOCPP and makes a child's parent or guardian liable to GOCPP (rather than MDH) for any charges for emergency medical treatment incurred on behalf of the child.

Requirement to Convene an Expert Panel on Child Abuse and Neglect

Under § 13-2205 of the Health-General Article, the Secretary of Health must appoint and convene an expert panel on child abuse and neglect relating to research and data collection at least once a year. The expert panel must assist the Secretary in reviewing the appropriateness of current procedural terminology codes and billing protocols for services provided regarding child abuse and neglect and determining how diagnosis and treatment data may be preserved to provide statistics on the extent of child abuse and neglect in the State. Each year, by December 1, the panel must submit a report containing specified data to the General Assembly. The bill repeals these requirements.

State Council on Child Abuse and Neglect

Under § 5-7A-06 of the Criminal Law Article, SCCAN is tasked with evaluating the extent to which State and local agencies are effectively discharging their child protection responsibilities. SCCAN must coordinate its activities with the State Citizens Review Board of Children, local citizen review panels, and child fatality review teams in order to avoid unnecessary duplication of effort. Under § 5-7A-09 of the Criminal Law Article, SCCAN must report and make recommendations annually to the Governor and the General Assembly on matters relating to the prevention, detection, prosecution, and treatment of child abuse and neglect, including policy and training needs.

The bill requires SCCAN to additionally coordinate with the Child Abuse Medical Providers (Maryland CHAMP) Initiative and include information on activities of the Maryland CHAMP Initiative in its annual report to the Governor and General Assembly, including any data the initiative has collected on child abuse and neglect diagnoses and treatment.

Tobacco Use Prevention and Cessation Program

Under § 13-1013 of the Health-General Article, before spending funds allocated in the budget for the Tobacco Use Prevention and Cessation Program's counter-marketing and media component, MDH must submit a specified report. Under § 7-317 of the State Finance and Procurement Article, MDH is also required to submit annual reports regarding all CRF activities. The bill repeals the reporting requirement regarding counter-marketing and media, which is duplicative of the annual CRF reporting requirements.

Background: MDH advises that the bill is intended to repeal or modify various outdated or obsolete provisions and requirements. Specifically, MDH notes that:

- repealing the carve-out that permits active-duty military personnel aged 18 to 20 to purchase tobacco products brings State law into compliance with federal law and reduces potential confusion for Maryland tobacco product sellers;
- transferring responsibility for the payment of claims for emergency medical treatment rendered to abused and neglected children from MDH to GOCPP aligns State law with existing practice, as GOCPP has been processing and paying these claims for several years;
- the requirement that the Secretary of Health convene an expert panel on child abuse and neglect has outlived its usefulness and repeal of the requirement allows the efforts of the Maryland CHAMP Initiative and SCCAN to be merged to best address issues facing abused and neglected children; and
- permitting MDH to reallocate a county's projected unspent grant funds for cancer prevention, education, screening, and treatment programs to another county will maximize the effectiveness of each county in meeting demand for cancer resources statewide and reduce the amount of funds reverting to CRF.

Local Fiscal Effect: Local government revenues and expenditures are affected to the extent that MDH reallocates projected unspent grant funds. Mid-year reallocation of funds (rather than allowing funds to revert to CRF at the end of the fiscal year) may negatively impact some counties while benefiting others.

MDH advises that a significant number of counties, in fiscal 2019 through 2022, had unspent funds of 5% or more of their annual allocations. According to MDH, current practice is for counties to submit mid-fiscal year expenditure reports in January or February. Based on the mid-year expenditure reports, it is typically clear whether a county is likely to fully spend down its allocation or not. MDH advises that, under the bill, it would not reallocate any funding for cancer-related programs between counties until the mid-year expenditure reports are submitted.

In fiscal 2018, only \$2,278 of the approximately \$25.1 million appropriated from CRF for cancer prevention, education, screening, and treatment services reverted to CRF. DLS advises that it could not obtain data for more recent fiscal years; therefore, DLS cannot provide an estimate of the extent to which local government grants may be affected by reallocation in fiscal 2025 and beyond rather than revert to CRF and be available for other purposes.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 220 (Chair, Finance Committee)(By Request - Departmental - Health) - Finance.

Information Source(s): Maryland Association of County Health Officers; Carroll, Garrett, and St. Mary's counties; Alcohol, Tobacco, and Cannabis Commission; Governor's Office of Crime Prevention and Policy; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Human Services; Department of Legislative Services

Fiscal Note History: First Reader - January 29, 2024
km/jc Third Reader - February 16, 2024
Enrolled - April 25, 2024

Analysis by: Ralph W. Kettell

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES
Maryland Department of Health
Session 2024

BILL TITLE: Public Health – Public Health Services and Protections – Revisions

BILL NUMBER: HB0042

PREPARED BY: _____
(Program\Unit): Prevention and Health Promotion Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL
BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The Tobacco 21

This element of the proposal will have no economic impact, although small businesses will no longer be able to service a small demographic of military customers between the ages of 18 and 20 years old.

CRF Funding

This element of the proposal may have minimal impact on Maryland small businesses. Any projected unspent CPEST funding that is reallocated to another county may be used by that county to fund needed cancer services in its jurisdiction. Some of these services may be provided by small businesses, such as health care providers who are part of a small practice has no economic impact.