

**Department of Legislative Services**  
Maryland General Assembly  
2001 Session

**FISCAL NOTE**  
**Revised**

House Bill 418 (Chairman, Environmental Matters Committee)  
(Departmental – Health and Mental Hygiene)

Environmental Matters

Economic and Environmental Affairs

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**Drugs and Prescription Records - Impounding and Disposing**

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This departmental bill authorizes the Department of Health and Mental Hygiene (DHMH) to issue an order of impoundment and immediately impound prescription or nonprescription drugs or prescription records.

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**Fiscal Summary**

**State Effect:** Because it is assumed that this bill would apply in a limited number of cases, State finances should not be materially affected.

**Local Effect:** None.

**Small Business Effect:** The Department of Health and Mental Hygiene (DHMH) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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**Analysis**

**Bill Summary:** DHMH may impound drugs or prescription records possessed by a pharmacy, manufacturer, distributor, or authorized prescriber if its permit or license has expired or been revoked or suspended, or its permit or licensure application has been denied. DHMH also may impound drugs or prescription records if: (1) a health occupation board has determined that the permit holder or licensee failed to comply with a board order, letter of surrender, or law regarding the disposition of drugs or prescription

records; (2) the drugs pose an imminent threat to the public safety; or (3) the confidentiality of the prescription records is in imminent danger of being compromised.

DHMH may charge reasonable fees to recover the costs of collection, storage, and disposition of drugs or prescription records. DHMH must adopt regulations governing the disposition of impounded drugs and prescription records. Prior to destroying or transferring impounded drugs or prescription records, DHMH must publish a notice for two consecutive weeks in a local daily newspaper, designating a date, time, and location where the drugs or records will be destroyed or transferred and stating the date, time, and location where the drugs or records may be retrieved by the permit holder or prescriber if certain conditions are met. A health occupation board must immediately notify the Division of Drug Control of the surrender, suspension, or revocation of a permit holder's permit or an authorized prescriber's license.

Prior to impoundment, DHMH must provide a permit holder or authorized prescriber an opportunity to review the nature, type, and amount of information upon which DHMH issued the impoundment order. DHMH must also provide an opportunity for the permit holder or authorized prescriber to avoid impoundment by providing sufficient information to DHMH showing impoundment is not warranted. DHMH must adopt regulations regarding impoundment orders and the disposition of drugs and records.

**Current Law:** None applicable.

**Background:** On several occasions, a pharmacy has suspended or otherwise ceased operations, and the permit holder was unwilling or unable to take the necessary steps to provide for the lawful disposition of drugs and prescription records.

The bill would allow DHMH to impound and dispose of drugs or prescription records if they were abandoned or left unsecured. In addition, DHMH could impound drugs or prescription records if a permit holder or prescriber had unlawfully dispensed, distributed, manufactured, or administered controlled dangerous substances.

**State Fiscal Effect:** Because the act of impoundment is an action of last resort, the number of impoundments performed by DHMH is assumed to be small. In the event prescription drugs were impounded, DHMH would use existing staff and State vehicles to impound and transport drugs or records and use State hospital facilities for storage. If drugs needed to be destroyed, additional costs could be incurred. The bill authorizes DHMH to charge a fee to cover the reasonable costs of collection, storage, and destruction of impounded property. The fee amount would be set in regulation and is assumed to be minimal. The adoption of regulations could be handled with existing DHMH resources.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene (Laboratories Administration, Division of Drug Control, Boards and Commissions), Department of Legislative Services

**Fiscal Note History:** First Reader – February 16, 2001  
ncs/jr Revised – House Third Reader – April 2, 2001  
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