

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 666

(Delegate Hubbard, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Biological Agents Registry Program

This bill requires the Department of Health and Mental Hygiene (DHMH) to adopt regulations providing for the release of specified information in the Biological Agents Registry to the Maryland Emergency Management Agency (MEMA) and the Maryland Department of the Environment (MDE) for purposes of planning.

Fiscal Summary

State Effect: The requirements of the bill could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: For the public's protection, the bill allows the registry to release information to the Maryland Institute for Emergency Medical Services Systems (MIEMSS) so MIEMSS can provide certain specified information to a police officer responding to an emergency and to a fire or emergency medical services entity performing emergency services, proceeding to a fire or other emergency, or dispatched on a call for emergency services. Local jurisdictions must be informed of the location and nature of each biological agent in the registry that is within their jurisdiction.

A person or entity who receives the specified registry information may not release the information unless the release is approved by the program.

It expands the definition of a “person” who possesses and maintains a biological agent and who must report the required information to the registry to include State and federal units of local government. Additionally, it redefines the term “biological agent.”

DHMH must consult with local jurisdictions in adopting and implementing the regulations regarding informing the jurisdictions of the biological agents in their area. DHMH must consider current standards and security measures followed by local officials and emergency response agencies when obtaining information about facilities that contain nuclear and chemically hazardous materials.

DHMH must adopt regulations to implement the requirements for releasing information to police and fire, rescue, or emergency medical services entities that establish procedures for identifying, distributing, and maintaining the confidentiality of secure information contained in the registry. In developing the regulations, DHMH must consult with the Governor’s Office of Homeland Security, MEMA, MIEMSS, MDE, the Maryland Association of Counties, the Maryland Municipal League, and local jurisdictions.

Current Law: Chapter 361 of 2002 established the Biological Agents Registry Program within DHMH. The program must identify specified “biological agents” possessed and maintained by any person in the State and contain other information as required by regulations adopted by DHMH.

DHMH must adopt regulations to implement the program that:

- determine and list biological agents;
- designate the people required to report on biological agents and the information to be included in the report;
- designate time limits for reporting information, the report forms, and the persons to whom reports are submitted;
- provide for releasing information to State and federal law enforcement agencies and the Centers for Disease Control and Prevention (CDC) in response to a communicable disease investigation or in connection with any investigation of release, theft, or loss of biological agents;
- establish a system of safeguards that requires persons possessing, maintaining, and transferring biological agents to comply with the same federal standards that apply to people registered to transfer the same agents under federal law; and
- establish a process for persons that possess and maintain biological agents to alert authorities of unauthorized possession or attempted possession of biological agents.

This does not apply to a biological agent or certified laboratory or facility exempt from the requirements applicable to the federal interstate shipment of etiologic agents. Information prepared for or maintained in the biological agents registry is confidential and not subject to the Access to Public Records Law.

Anyone who violates the provisions of this law is guilty of a misdemeanor and on conviction is subject to a fine up to \$100 for the first offense and up to \$500 for each subsequent offense. Each day a violation is continued after the first conviction is a subsequent offense.

The federal Department of Health and Human Services (HHS) generally requires a facility, before transferring or receiving select biological agents, to register with an HHS-authorized entity or be approved by HHS to handle the select agents. A facility is exempt from this requirement if the agent is part of a specimen for diagnostic, reference, or verification purposes or is an exempted strain. A facility is also exempt if the agent is a toxin being used for medical purposes, biomedical research, or has been inactivated and used as a vaccine or for research. Clinical laboratories certified under the federal Clinical Laboratory Improvement Amendments of 1988 also are exempted.

Background: DHMH reports that because State and federal agencies (*e.g.*, universities and National Institutes of Health) are not specifically included in the definition of a “person” who has to report if the person maintains and possesses a biological agent, these entities have refused to comply with the program. According to DHMH, these entities also are telling their subcontractors that may possess or maintain biological agents not to comply with the program.

At the same time, DHMH is not able to share registry information with MEMA because statute only allows for registry information to be shared with CDC and law enforcement agencies under certain circumstances. DHMH believes that it is appropriate to share registry information with MEMA and MDE since both entities are charged with preventing and protecting the public against the release of a biological agent. Additionally, by allowing certain information to be shared with MIEMSS, the release of a biological agent could be linked with the 911 emergency system. Emergency responders such as the police and paramedics would be alerted if there may be biological agents on site when they respond to a call for help. Local emergency management officials told DHMH that they do not want full disclosure of registry information, just a general alert that would make them aware when they needed to take precautions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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