

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

Senate Bill 657 (Senator Gladden)  
Judicial Proceedings

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**Administrative and Regulatory Searches - Law Enforcement Officers - Search  
Warrant Requirements**

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This bill prohibits a law enforcement officer from entering a place of business to search for evidence of a crime without a valid search warrant, excluding alcoholic beverages and health occupations inspectors. This prohibition is regardless of whether, in the course of an administrative or regulatory search, the officer is accompanied by or claims to be acting on behalf of the: Comptroller or the Comptroller's authorized deputies, inspectors, or clerks; and the board of license commissioners of the county or the city in which a place of business is located or its duly authorized agents or employees. It also is regardless of whether, in the course of an administrative or regulatory search, the officer is accompanied by or claims to be acting on behalf of the Secretary of Health and Mental Hygiene or an agent or employee of the Secretary.

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**Fiscal Summary**

**State Effect:** None. The bill would not materially affect governmental finances.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

### Current Law:

#### *Alcoholic Beverages Inspections*

The Comptroller, his duly authorized deputies, inspectors, and clerks, the board of license commissioners of the county or the city in which a place of business is located, its duly authorized agents and employees, and any peace officer of such county or city, or any of them are fully authorized to inspect and search, without a warrant, at all hours, any building, vehicle, and premises in which any alcoholic beverages are authorized to be kept, transported, manufactured, or sold under a license or permit issued under the Alcoholic Beverages Article.

Any evidence discovered during an inspection must be admissible in any prosecution for the violation of the provisions of this or any other article, or upon any hearing for revocation, suspension, or restriction of the license or permit. Any evidence must be returned to the licensee or permit holder if the person is judged not guilty. If the person is judged guilty, the evidence must be sold to licensees, turned over to State institutions for medicinal use, or destroyed. Sales receipts must be credited to the general fund of the State, county, or Baltimore City.

#### *Health Inspections*

The Secretary of Health and Mental Hygiene or the Secretary's employee may enter, at any reasonable hour, a place of business or premises if the entry is necessary to carry out a duty under the Health Occupations Article. A person may not interfere with such an entry. Violators are guilty of a misdemeanor and on conviction subject to a maximum \$100 fine.

#### *Search Warrants*

A circuit court judge or District Court judge may issue a search warrant whenever the judge finds there is probable cause to believe that a crime is being committed by a person or in a location within the judge's jurisdiction, or goods subject to criminal seizure are located within the judge's jurisdiction.

An application for a search warrant must be in writing, signed, and sworn to by the applicant. It must be accompanied by an affidavit that sets forth the basis for probable cause, which must be based on the affiant's personal knowledge.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 7, 2004  
mll/jr

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Analysis by: Lisa A. Daigle

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