

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 450

(Senator Hooper, *et al.*)

Judicial Proceedings

Controlled Dangerous Substances - Dextromethorphan Products

This bill prohibits a person from purchasing a dextromethorphan product unless the person produces a valid government-issued photo identification with date of birth indicating the person is older than 18 years old and signs a log or receipt showing the transaction's date, the person's name and address, and the amount of the product purchased. Each pharmacy must maintain a record of the signed logs or receipts according to Department of Health and Mental Hygiene (DHMH) requirements and post signs in conspicuous locations explaining the restrictions and the public health and safety reasons for the restrictions. A person may not purchase more than 3.6 grams of any dextromethorphan product within any 30-day period. This requirement does not apply to any quantity of the product that is dispensed according to a valid prescription or by a licensed health care practitioner carrying out his/her profession. A violator is guilty of a misdemeanor and on conviction is subject to maximum penalties of a \$1,000 fine and/or one year imprisonment.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provision.

Local Effect: Potential minimal increase in revenues and expenditures due to the bill's penalty provision.

Small Business Effect: Minimal.

Analysis

Current Law: Dextromethorphan is not listed under federal or State laws or regulations as a controlled dangerous substance.

Background: Dextromethorphan (DXM) is a cough-suppressing ingredient in many over-the-counter cold and cough medications. A semisynthetic narcotic, it is an ingredient in any cold medicine with “DM” or “Tuss” in the title or name. There are approximately 70 products on the market that contain (DXM).

DXM is a cough-suppressing ingredient. At recommended doses of one-sixth to one-third of an ounce, a product containing DXM is safe and effective. At higher doses of four ounces or more, DXM produces effects such as euphoria, enhanced awareness, impaired judgment, dizziness, nausea, seizures, panic attacks, psychosis, brain damage, and addiction. Cold medicines with DXM also can cause coma and death.

State Revenues: General fund revenues could increase minimally as a result of the bill’s monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill’s incarceration penalty due to increased payments to counties for reimbursement of inmate costs and more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2007 are estimated to range from \$17 to \$65 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility. Currently, the DOC average total cost per inmate, including overhead, is estimated at \$1,974 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$341 per month.

Local Revenues: Revenues could increase minimally as a result of the bill’s monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase as a result of the bill’s incarceration penalty. Counties pay the full cost of incarceration for the first 90 days of the sentence,

plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$33 to \$119 per inmate in fiscal 2007.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, www.streetdrugs.org, Department of Legislative Services

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