

CHAPTER 170

(House Bill 1195)

AN ACT concerning

Prescription Drugs – Wholesale Drug Distribution – Surety Bond Requirements

FOR the purpose of altering surety bond requirements for an applicant for a wholesale distributor permit; specifying the entity to which the surety bond *or certain other security* is payable; specifying the amount of the surety bond *or other security*, depending on certain receipts of the applicant; authorizing the State Board of Pharmacy to require by regulation certain documentation; authorizing the Board to allow an applicant for a wholesale distributor permit or a wholesale distributor permit holder to rescind a surety bond or other security submitted before a certain date and submit a new surety bond or other security under certain circumstances; defining a certain term; making this Act an emergency measure; and generally relating to surety bond requirements for applicants for wholesale drug distributor permits.

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 12–6C–05(f)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

12–6C–05.

(f) (1) **IN THIS SUBSECTION, “GROSS RECEIPTS” MEANS GROSS RECEIPTS FROM SALES OF PRESCRIPTION DRUGS AND DEVICES IN THE STATE.**

(2) This subsection does not apply to a pharmacy warehouse that is not engaged in wholesale distribution.

~~(2)~~ **(3) (I)** An applicant for a wholesale distributor permit shall submit a surety bond [of at least \$100,000,] or other equivalent means of security acceptable to the [State] **STATE**, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to **THE MARYLAND STATE BOARD OF**

PHARMACY TO BE DEPOSITED INTO an account established by the State under paragraph ~~(6)~~ **(7)** of this subsection.

(II) THE SURETY BOND OR OTHER SECURITY SHALL BE IN THE AMOUNT OF:

1. \$100,000, IF THE ANNUAL GROSS RECEIPTS OF THE APPLICANT FOR THE PREVIOUS TAX YEAR ARE \$10,000,000 OR MORE; OR

2. \$50,000, IF THE ANNUAL GROSS RECEIPTS OF THE APPLICANT FOR THE PREVIOUS TAX YEAR ARE LESS THAN \$10,000,000.

(III) THE BOARD MAY REQUIRE BY REGULATION DOCUMENTATION FOR THE GROSS RECEIPTS OF THE WHOLESALE DISTRIBUTOR TO QUALIFY FOR A SURETY BOND OR OTHER SECURITY IN THE AMOUNT OF \$50,000 SURETY BOND.

~~(3)~~ **(4)** The purpose of the surety bond is to secure payment of any fines or penalties imposed by the Board and any fees and costs incurred by the State relating to the permit that:

(i) Are authorized under State law; and

(ii) Are not paid by the permit holder within 30 days after the fines, penalties, fees, or costs become final.

~~(4)~~ **(5)** The State may make a claim against the surety bond or other security until 2 years after the permit holder's permit ceases to be valid.

~~(5)~~ **(6)** A single surety bond shall cover all facilities operated by the applicant in the State.

~~(6)~~ **(7)** The Board shall establish an account, separate from its other accounts, in which to deposit the applicant's surety bond or other security.

SECTION 2. AND BE IT FURTHER ENACTED, That, if an applicant for a wholesale distributor permit or a wholesale distributor permit holder has submitted a surety bond or other security in the amount of \$100,000 before the effective date of this Act but demonstrates eligibility for a surety bond or other security in the amount of \$50,000, as provided in § 12-6C-05(f)(3)(ii)2 of the Health Occupations Article as enacted by Section 1 of this Act, the State Board of Pharmacy may allow the applicant or permit holder to rescind the surety bond or other security already submitted and submit a new surety bond or other security in the lower amount.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 14, 2009.