

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 390
Finance

(Senator Conway, *et al.*)

**Food, Drugs, and Cosmetics - Auction and Internet Sales - Prohibition -
Exception**

This bill prohibits a person in the State from selling, via auction, any infant formula or baby food that is subject to U.S. Food and Drug Administration (FDA) expiration dating requirements *unless* the person notifies the Secretary of Health and Mental Hygiene of the proposed auction at least seven days before the auction date. Further, the bill prohibits a person in the State from selling, via Internet auction, any drug, medicine, cosmetic, pharmaceutical or medical preparation, or infant formula or baby food that is subject to FDA expiration dating requirements *unless* the person notifies the Secretary of the proposed auction at least seven days before the auction date. Violators are subject to fines of up to \$500.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's penalty provisions from cases heard in the District Court. No effect on expenditures. Enforcement can be handled with existing resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: State law prohibits auction sales of any drug, medicine, cosmetic, pharmaceutical preparation, or medicinal preparation without receipt of prior notification to the Secretary of Health and Mental Hygiene, who may regulate such sales.

The Secretary of Health and Mental Hygiene may inspect any drugs, medicines, cosmetics, pharmaceutical preparations, or medicinal preparations that a person plans to sell at an auction. The Secretary can issue an order that prohibits the sale of any of these products if he or she finds them unfit for consumption. Violators are subject to fines of up to \$500. Baby food and infant formula are not subject to these requirements.

Background: In 2008, the National Retail Federation issued a consumer alert warning that health and personal care products sold online could be stored improperly and therefore be spoiled, contaminated, or expired.

Additional Information

Prior Introductions: None.

Cross File: HB 114 (Delegate Hubbard, *et al.*) - Health and Government Operations.

Information Source(s): Department of Legislative Services

Fiscal Note History: First Reader - February 20, 2009
mlm/mwc

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