

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1195

(Delegate Montgomery, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Prescription Drugs - Wholesale Drug Distribution - Surety Bond Requirements

This emergency bill changes the amount of the surety bond or other security that applicants for a wholesale pharmaceutical distribution permit must submit with their application. The amount changes from \$100,000 in all cases to \$100,000 only if the applicant's annual gross receipts from the sale of prescription drugs or devices in the State for the previous tax year are \$10,000,000 or more. It drops to \$50,000 if the applicant's annual gross receipts for the previous tax year are less than \$10,000,000. The bill authorizes the Board of Pharmacy to allow a wholesaler that submitted a \$100,000 bond or other security prior to the bill's enactment to reduce the amount if the wholesaler qualifies for the \$50,000 surety bond or other security. In addition, the bill requires a wholesale distributor permit applicant to submit a surety bond or other security payable to the board, rather than to an account established by the State.

Fiscal Summary

State Effect: The bill does not affect State finances since surety bonds or other security are designed only to cover fines, penalties, fees, or costs that are not paid by a permit holder in the event that the State makes a claim against a surety bond or other security.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapters 352 and 353 of 2007 require a wholesale distributor permit applicant to submit a surety bond of at least \$100,000 or other equivalent means of security acceptable to the State, such as an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to an account established by the State. The board must establish the account, separate from its other accounts. The surety bond is used to secure payment of any fines or penalties imposed by the board and any fees and costs incurred by the State related to the permit that are authorized under State law and are not paid by the permit holder within 30 days after the fines, penalties, fees, or costs become final.

The State may make a claim against a surety bond or other security until two years after the permit holder's permit ceases to be valid. A single surety bond covers all facilities operated by the applicant in the State.

Background: The board advises that it regulated over 900 wholesale distributors in 2008 and that 700 of those distributors submitted renewal applications. The board further advises that it does not know how many distributors will meet the new lower surety bond eligibility standard that will qualify them to submit the \$50,000 surety bond. The Board of Pharmacy advises that, to date, no claims have been made against a surety bond.

At least three states, California, New Jersey, and Nevada, allow wholesalers that do not meet a specified threshold of gross receipts to have a lower bond.

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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