

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 831 (Delegate Beidle, *et al.*)  
Economic Matters

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Flea Markets - Sale of Baby Food, Cosmetics, and Nonprescription Drugs -  
Prohibited

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This bill generally prohibits the sale of “baby food,” “cosmetics,” and “nonprescription drugs” at flea markets, including those sponsored by nonprofit charitable organizations.

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**Fiscal Summary**

**State Effect:** The criminal penalty provision of this bill is not expected to significantly affect State finances or operations.

**Local Effect:** None. Any increase in the workload of local law enforcement units is expected to be minimal and can be handled with existing resources.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Bill Summary:** Baby food, cosmetics, and nonprescription drugs may be sold at flea markets if the seller has written proof of ownership of the items. Manufacturers, distributors, or wholesalers of these items may sell them at flea markets if they present written proof of authority to sell the items at retail.

A person who violates these provisions is guilty of a misdemeanor and subject to a fine of \$250.

**Current Law:** State law prohibits auction sales of any drug, medicine, cosmetic, pharmaceutical preparation, or medicinal preparation without prior notification to the

Secretary of Health and Mental Hygiene, who may regulate such sales. The Secretary may inspect any drugs, medicines, cosmetics, pharmaceutical preparations, or medicinal preparations that a person plans to sell at an auction and 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. There is currently no provision of law regulating the sale of baby food, cosmetics, or nonprescription drugs at flea markets.

In general, a person must obtain a trader's license from the local circuit court clerk whenever conducting business in the State as a trader or exhibitor. The fee associated with the license ranges between \$15 and \$2,125 depending on the value of the applicant's stock-in-trade. An exhibitor does not require a trader's license if the show is provided by a church, a governmental unit, an amateur radio organization, an antique vehicle or machinery organization, a volunteer fire department, or a model train collectors' association.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore, Charles, Frederick, Montgomery, and Somerset counties; Judiciary (Administrative Office of the Courts); Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2010  
mlm/mcr

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