

**Department of Legislative Services**  
Maryland General Assembly  
2010 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 431

(Senator Conway, *et al.*)

Finance

Health and Government Operations

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**Food and Cosmetics - Auction Sales - Prohibition - Exception**

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This bill prohibits a person from selling infant formula or baby food that is subject to dating requirements by the U.S. Food and Drug Administration at any auction *unless* the Secretary of Health and Mental Hygiene is notified seven days prior to the auction. The Secretary may inspect infant formula or baby food that is going to be sold by auction and prohibit these sales when necessary. Violators are guilty of a misdemeanor and subject to fines of up to \$500.

The bill does not apply to infant formula or baby food that is valued at \$100 or less and is sold in a single lot at a charity auction. Cosmetics valued at \$100 or less and sold in a single lot at a charity auction are also exempted from current provisions related to auction sales.

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**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. Enforcement can be handled with existing resources.

**Local Effect:** The bill does not materially affect local government operations or finances.

**Small Business Effect:** Minimal.

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## Analysis

**Current Law:** State law prohibits auction sales of any drug, medicine, cosmetic, pharmaceutical preparation, or medicinal preparation without providing 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.

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### Additional Information

**Prior Introductions:** SB 390/HB 114 of 2009 were similar to this bill. SB 390 received an unfavorable report from the Senate Finance Committee, and HB 114 was withdrawn after a hearing in the House Health and Governmental Operations Committee.

**Cross File:** Although not designated as a cross file, HB 494 (Delegate Hubbard, *et.al* - Health and Government Operations) is identical.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2010  
mlm/mwc Revised - Senate Third Reader - March 26, 2010

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Analysis by: Erin McMullen

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510