

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 798
Economic Matters

(Delegate Hornberger, *et al.*)

State Board of Plumbing - Grounds for Disciplinary Action - Exception

This bill prohibits the State Board of Plumbing from denying a license to any applicant, reprimanding any licensee, or suspending or revoking a license on the ground that the applicant or licensee has been convicted of a nonviolent crime involving a controlled dangerous substance, prescription drug, or other substance under Title 5 of the Criminal Law Article (The Maryland Controlled Dangerous Substances Act) or the laws of the United States or of any other state.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Subject to specified hearing requirements, the board may deny a license to any applicant, reprimand a licensee, or suspend or revoke a license if the individual, under the laws of the United States or of any state, is convicted of (1) a felony or (2) a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide plumbing services.

The board must consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor:

- the nature of the crime;
- the relationship of the crime to the activities authorized by the license;
- with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide plumbing services;
- the length of time since the conviction; and
- the behavior and activities of the applicant or licensee before and after the conviction.

Controlled Dangerous Substances and Nonviolent Crimes

Controlled dangerous substances are listed on one of five schedules (Schedules I through V) set forth in statute depending on their potential for abuse and acceptance for medical use. No distinction is made in the law regarding the illegal possession of any controlled dangerous substance, regardless of which schedule it is on, with the exception of marijuana. For information on additional primary crimes involving controlled dangerous substances, please refer to the **Appendix – Additional Primary Crimes Involving Controlled Dangerous Substances**.

“Nonviolent crime” is not defined in the Maryland Code; however, “crime of violence” is defined in multiple locations. Each of these definitions is unique and carries its own implications. Section 14-101 of the Criminal Law Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a handgun in the commission of a felony or other crime of violence; (13) child abuse in the first degree; (14) sexual abuse of a minor younger than age 13 under specified circumstances; (15) an attempt to commit crimes (1) through (14); (16) continuing course of conduct with a child; (17) assault in the first degree; or (18) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree. This definition applies to statutes pertaining to mandatory sentences, parole eligibility, diminution credits, and eligibility for specified correctional programs.

Background: The State Board of Plumbing regulates the plumbing industry throughout most of Maryland, but it lacks jurisdiction in Baltimore County as well as in areas of Montgomery and Prince George’s counties under the jurisdiction of the Washington Suburban Sanitary Commission. The licenses issued by the board are not valid in these jurisdictions. Therefore, to provide plumbing services throughout most of the State, a person must be licensed by the board. The board issues three different plumbing licenses: master, journey, and apprentice. These licenses are typically held in conjunction with the equivalent gas fitters license.

The board did not deny any license applications in fiscal 2014 due to criminal convictions.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2015
mar/mcr

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Appendix – Additional Primary Crimes Involving Controlled Dangerous Substances

For specified primary crimes involving controlled dangerous substances and paraphernalia, a person may not:

- distribute, dispense, or possess with the intent to distribute a controlled dangerous substance;
- manufacture a controlled dangerous substance or manufacture, distribute, or possess a machine, equipment, or device that is adapted to produce a controlled dangerous substance with the intent to use it to produce, sell, or dispense a controlled dangerous substance;
- create, distribute, or possess with the intent to distribute a counterfeit substance;
- manufacture, distribute, or possess equipment designed to render a counterfeit substance;
- keep a common nuisance (any place resorted to for the purpose of illegally administering controlled dangerous substances or where such substances or controlled paraphernalia are illegally manufactured, distributed, dispensed, stored, or concealed); or
- pass, issue, make, or possess a false, counterfeit, or altered prescription for a controlled dangerous substance with the intent to distribute the controlled dangerous substance.

Exhibit 1 contains the applicable sentences for these crimes.

Exhibit 1
Penalties for Distribution of Controlled Dangerous Substances (CDS)
and Related Offenses

Offense

Current Penalty

CDS (Other than Schedule I or II Narcotic Drugs and Other Specified CDS)

First-time Offender – CDS (other than Schedule I or II narcotic drugs and other specified CDS)	Maximum penalty of 5 years imprisonment and/or \$15,000 fine
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Repeat Offender – CDS (other than Schedule I or II narcotic drugs and other specified CDS)	2-year mandatory minimum sentence Maximum penalty of 5 years imprisonment and/or \$15,000 fine
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CDS (Schedule I or II Narcotic Drug)

First-time Offender – Schedule I or II narcotic drug	Maximum penalty of 20 years imprisonment and/or \$25,000 fine
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Second-time Offender – Schedule I or II narcotic drug	10-year mandatory minimum sentence (20 years maximum imprisonment) and a fine of up to \$100,000
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Third-time Offender – Schedule I or II narcotic drug	25-year mandatory minimum sentence and a fine of up to \$100,000
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Fourth-time Offender – Schedule I or II narcotic drug	40-year mandatory minimum sentence and a fine of up to \$100,000
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CDS (Specified Drugs)

First-time Offender – Specified Drugs	Maximum penalty of 20 years imprisonment and/or a fine of up to \$20,000
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Second-time Offender – Specified Drugs	10-year mandatory minimum sentence (20 years maximum imprisonment) and a fine of up to \$100,000
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Third-time Offender – Specified Drugs	25-year mandatory minimum sentence and a fine of up to \$100,000
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Fourth-time Offender – Specified Drugs	40-year mandatory minimum sentence and a fine of up to \$100,000
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Note: All mandatory minimum sentences listed in the exhibit are nonsuspendable and nonparolable.

Source: Department of Legislative Services