

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 107

(Delegate R. Lewis)

Health and Government Operations

Finance

Prohibition on Vending Machine Sales of Drugs and Medicines – Repeal

This bill repeals the prohibition on the sale, distribution, or disposal of drugs, medicines, pharmaceutical preparations, or medicinal preparations by means of a vending machine or similar device. The bill also makes conforming changes to renumber sections and correct cross references.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations, as discussed below.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Pursuant to § 21-1111 of the Health-General Article, a person may not sell, distribute, or otherwise dispose of any drug, medicine, pharmaceutical preparation, or medicinal preparation by a vending machine or other similar device. A person who violates this provision is guilty of a misdemeanor and on conviction is subject to a fine of up to \$100. Each day a violation continues constitutes a separate offense. The Secretary of Health may exempt any commodity from this prohibition through regulation if the commodity may be dispensed by a vending machine without danger to the public health.

Per the Code of Maryland Regulations (COMAR) 10.13.11.01, nonprescription drugs that alleviate pain may be sold by a vending machine or other similar device in (1) solid oral

dosage form only and (2) single-dose quantities of not more than three tablets or capsules per dose. Per COMAR 10.52.04.02, a condom approved by the U.S. Food and Drug Administration as a medical device may be sold by a vending machine or other automatic device. However, under § 10-105 of the Criminal Law Article, a person may not sell or offer for sale a contraceptive or a contraceptive device by a vending machine or other automatic device at a kindergarten, nursery school, or elementary or secondary school.

Section 12-102(k) of the Health Occupations Article specifies that Title 12 of the Health Occupations Article, which governs the practice of pharmacy, does not limit the right of a general merchant to sell any nonprescription drug or device.

Every person who sells or offers goods for sale through a vending machine in Maryland must obtain a vending machine license from the Clerk of the Circuit Court in the county where the machines are located. The license fee is \$2.50 for each vending machine.

State Fiscal Effect: The Maryland Department of Health advises that the bill has no fiscal impact providing that controlled dangerous substances (CDS) are not among those drugs sold, distributed, or disposed of by means of a vending machine or similar device. As such, this analysis assumes that CDS or other prescription drugs will not be sold by vending machine or similar device, despite the bill's repeal.

Small Business Effect: To the extent that small business owners choose to operate or own vending machines to sell, distribute, or dispose of drugs or medicines, revenues may increase.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 499 (Senator Lam) - Finance.

Information Source(s): Maryland Association of County Health Officers; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2021
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