

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 614

(Senator Waldstreicher)

Judicial Proceedings

Judiciary

Criminal Law - Controlled Dangerous Substances - Schedules - Adjustment

This bill repeals the specific list of substances included in Schedules I through V of the Maryland Controlled Dangerous Substances Act and instead incorporates by reference (1) Controlled Dangerous Substances (CDS) added to any Schedule I through V by the Maryland Department of Health (MDH); (2) CDS scheduled by the federal government on any Schedule I through V unless MDH objects; and (3) CDS analogues, as defined and designated under existing statute. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: The bill is procedural/technical in nature and is not anticipated to materially affect State finances or operations.

Local Effect: The bill is procedural/technical in nature and is not anticipated to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Current Law: CDS 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. The federal Controlled Substances Act and the Maryland Controlled Dangerous Substances Act contain parallel eligibility criteria for each of the schedules.

Under the Maryland Controlled Dangerous Substances Act, if the federal government places a substance on Schedules I through V, it is automatically considered a substance on

the same schedule under Maryland law unless MDH objects to the designation. MDH must update and republish schedules annually.

Section 5-402 of the Criminal Law Article (Schedule I substances) defines a “CDS analogue” as a substance that (1) has a chemical structure substantially similar to a CDS in Schedule I or II and (2) has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a CDS in Schedule I or II. A “CDS analogue” does not include a CDS, a substance for which there is an approved new drug application, or a substance exempted for investigational use under the Federal Food, Drug, and Cosmetic Act.

Maryland regulates a few substances more stringently than the federal government. Schedule III in Maryland includes “not more than 100 milligrams of opium per 100 milliliters or per 100 grams, or not more than 5 milligrams per dosage unit.” However, this is on Schedule V federally. Currently, Schedule III in Maryland also includes butalbital (including fiorinal and fioricet). However, fiorinal is the only product controlled federally. The only difference between fioricet and fiorinal is that fioricet contains acetaminophen and fiorinal contains aspirin.

The U.S. Drug Enforcement Administration’s list of scheduled CDS and the State’s exceptions can be found on [MDH’s website](#).

Additional Comments: It should be noted that the bill also removes from statute those substances that Maryland regulates more stringently than the federal government. It does not appear that those substances are listed in Maryland regulations. However, those substances can still be found listed on MDH’s website under the title “Maryland Supplemental CDS List” that must be updated and republished on an annual basis.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 33 (Delegate Shetty) - Judiciary.

Information Source(s): Baltimore City; Caroline, Howard, Montgomery, and Prince George’s counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Maryland Department of Health; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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