

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1379-01  
Bill No.: SB 291  
Subject: Drugs and Controlled Substances; Health Care; Pharmacy  
Type: Original  
Date: February 5, 2007

Bill Summary: This proposal changes the laws relating to wholesale distributors of prescription drugs.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Wholesale Distributor Bonds Fund*	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
Board of Pharmacy Fund	(\$5,600)	(\$52,000)	\$0
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>(\$5,600) to Unknown</b>	<b>(\$52,000) to Unknown</b>	<b>\$0 to Unknown</b>

\*The name for the fund was not designated in the proposal.

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Department of Corrections (DOC)** state the DOC, cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this proposal, the DOC will incur a corresponding increase in operational cost either through incarceration (FY06 average of \$39.43 per inmate, per day or an annual cost of \$14,392 per inmate) or through supervision provided by the Board of Probation and Parole (FY06 average of \$2.52 per offender, per day or an annual cost of \$920 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

ASSUMPTION (continued)

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** assume implementation of this proposal would require an estimated additional two Board of Pharmacy meetings for a cost of \$700 (\$50 per diem X 7 board members X 2 meetings).

Verification of the universal electronic tracking system would cost an estimated \$4,900 for developer testing.

The Board of Pharmacy estimates that approximately 130 drug distributors would not have to continue renewing drug distributor fees, as a national distributor license would only be required. This would cause a biennial revenue loss of \$52,000 to the Board of Pharmacy Fund (130 X \$400 drug distributor renewal fees).

Section 338.412.4 requires applicants to secure a bond of at least \$100,000. Section 338.370 states that the board may secure such fine from the bond pursuant to section 338.370. DIFP states it has no estimates as to the number of licensees that would be affected by 338.370, therefore, the collection of fines relative to these sections are unknown.

**Oversight** notes that a fund will be set up, but Section 338.412.5 does not specify the name of the fund. For fiscal note purposes, Oversight will use the name Wholesale Distributor Bonds Fund.

<u>FISCAL IMPACT - State Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
<b>GENERAL REVENUE FUND</b>			
<u>Costs - Department of Corrections</u>	<u>(Less than</u>	<u>(Less than</u>	<u>(Less than</u>
Incarceration/probation costs	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>
<u>Total Costs - DOC</u>	<u>(Less than</u>	<u>(Less than</u>	<u>(Less than</u>
	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Less than</u></b>	<b><u>(Less than</u></b>	<b><u>(Less than</u></b>
	<b><u>\$100,000)</u></b>	<b><u>\$100,000)</u></b>	<b><u>\$100,000)</u></b>

**WHOLESALE DISTRIBUTOR  
 BONDS FUND\***

Income - Department of Insurance,  
 Financial Institutions and Professional  
 Registration

Fines	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
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**ESTIMATED NET EFFECT ON  
 WHOLESALE DISTRIBUTOR  
 BONDS FUND\***

<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>	<u>\$0 to Unknown</u>
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\*The name for the fund was not designated in the proposal.

**BOARD OF PHARMACY FUND**

Costs - Department of Insurance,  
 Financial Institutions and Professional  
 Registration

Implementation costs	(\$5,600)	\$0	\$0
Loss of drug distributor renewal fees	<u>\$0</u>	<u>(\$52,000)</u>	<u>\$0</u>
<u>Total Costs</u> - DIFP	<u>(\$5,600)</u>	<u>(\$52,000)</u>	<u>\$0</u>

**ESTIMATED NET EFFECT ON  
 BOARD OF PHARMACY FUND**

<u>(\$5,600)</u>	<u>(\$52,000)</u>	<u>\$0</u>
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FISCAL IMPACT - Local Government

FY 2008 (10 Mo.)	FY 2009	FY 2010
<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

## FISCAL DESCRIPTION

This proposal charges the Board of Pharmacy with the duty of issuing wholesale drug distributor licenses to those who distribute prescription drugs to persons other than consumers or patients. Certain information must be delivered to the board with a license request including names, addresses, descriptions of the operation, and descriptions of any offenses. Physical inspections must be made of in-state facilities prior to licensing and designated representatives must meet certain criteria.

Potential licensees must post a bond of at least \$100,000 or equivalent means of security acceptable to the board. The proposal provides for the renewal of licenses and continuing education requirements.

Once in operation, a manufacturer or wholesale distributor shall furnish prescription drugs only to persons licensed by the Board of Pharmacy. The drugs shall be delivered only to the premises on the license to a licensed individual, or to an authorized person if the identity and authorization is established and the use of such a method is immediately necessary.

Licensees must establish and maintain inventories and records of all transactions including records of pedigrees for all prescription drugs that leave the normal distribution channel. The Board of Pharmacy shall study and decide the viability of instituting an electronic pedigree system. Requirements for maintaining and identifying information in pedigrees is established.

The proposal authorizes the board to issue orders ceasing the distribution of prescription drugs by licensees in light of certain violations. Upon such a determination, such licensees shall be afforded a hearing. The board may refuse to issue any license in certain instances and upon such refusal the applicant may file a complaint with the Administrative Hearing Commission.

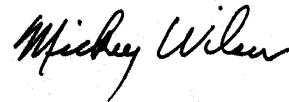
Conviction of any violation under the proposal shall result in a Class C felony.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Office of the Secretary of State  
Department of Corrections  
Department of Insurance, Financial Institutions and Professional Registration

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive style with a large, prominent "M" and "W".

Mickey Wilson, CPA  
Director  
February 5, 2007