

**Department of Legislative Services**  
 Maryland General Assembly  
 2016 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 2 (Delegate O'Donnell)  
 Health and Government Operations

**Cedar Hope Chests - Prohibition on Manufacture, Import, and Sale (McKenna's Law)**

This bill prohibits the importation, sale, offer, or manufacture for sale of a “cedar hope chest” with a lid latch that locks automatically when the lid is closed and cannot be unlocked from the inside; such a chest must also have a design identified by the U.S. Consumer Product Safety Commission (CPSC) as presenting a risk of suffocation death to children who could become trapped inside. The bill establishes civil penalties and authorizes courts to enjoin an action prohibited by the bill. The Department of Health and Mental Hygiene (DHMH) must develop a public awareness campaign about the dangers of cedar hope chests as well as adopt regulations necessary to implement the bill.

**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues due to the bill’s penalty provisions for those cases heard in the District Court. General fund expenditures increase by \$49,300 in FY 2017 for DHMH’s Prevention and Health Promotion Administration to implement the bill. Future year expenditures reflect annualization, inflation, and phasing out of the contractual employee by FY 2020.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	49,300	51,000	29,000	-	-
Net Effect	(\$49,300)	(\$51,000)	(\$29,000)	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** The circuit courts can handle any injunction cases that may be diverted to them. Enforcement can be handled with existing resources, assuming that enforcement is complaint based.

**Small Business Effect:** Potential meaningful.

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### Analysis

**Bill Summary:** A person that violates the bill is subject to a civil penalty of up to \$1,000 for a first violation and up to \$2,500 for each subsequent violation. The civil penalty provisions of the bill do not apply to the sale or distribution of a cedar hope chest that is resold, offered for resale, or distributed by a consumer for consumer use.

**Current Law/Background:** There are no prohibitions against these types of products. On March 5, 2014, CPSC reissued a warning regarding storage and toy chests that have automatic locks and/or do not have lid supports to keep the lid open in every position. At that time, CPSC had received reports of 34 deaths since 1996 involving children younger than age 18. Approximately 27 companies have taken action to correct more than 14 million toy and storage chests that posed a suffocation, strangulation, or injury risk.

**State Expenditures:** General fund expenditures for DHMH increase by \$49,294 in fiscal 2017, which accounts for the bill's October 1, 2016 effective date.

DHMH has determined that one regular full-time position is needed to implement this bill. However, the Department of Legislative Services advises that the added responsibilities incurred by this legislation are not permanent and, thus, may be performed by a contractual employee. This estimate reflects the cost of hiring one full-time contractual program administrator to write regulations, develop the required public awareness campaign, conduct outreach and train local health departments, and enforce the prohibitions established in the bill. It includes a salary; fringe benefits; one-time start-up costs, including purchasing a field laptop with hardware and software; and ongoing operating expenses, including printing educational materials and renting space for the new employee.

This analysis assumes that complaints are *de minimis* after fiscal 2019 because the bill's penalty provisions do not apply to consumer resale or distribution. Thus, the need for a full-time contractual position decreases to a part-time position in fiscal 2019 and phases out completely after fiscal 2019. However, to the extent that complaints remain high or that enforcement is not complaint based, DHMH may need to retain this position.

Contractual Position	1
Salary and Fringe Benefits	\$36,095
Operating Expenses	<u>13,199</u>
<b>Total FY 2017 State Expenditures</b>	<b>\$49,294</b>

Future year expenditures reflect a full salary in fiscal 2018, and a part-time contractual salary in fiscal 2019, with annual increases and employee turnover as well as annual increases in ongoing operating expenses. However, minimal general fund expenditures for DHMH continue in fiscal 2020 and 2021, and in future years, to continue the required public awareness program and enforcement, as needed. It is assumed that existing staff can absorb these duties at that time.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

DHMH advises that local health departments may be asked to respond to complaints against merchants or sellers of cedar hope chests. A contractual program administrator can coordinate and respond to complaints statewide. This analysis assumes that, with training, local health departments can assist in enforcement and that enforcement is complaint based. Additionally, many companies have voluntarily implemented safety design changes to these types of chests in light of the national CPSC warnings that have been promulgated and media attention surrounding this issue. Thus, the number of complaints under the bill is likely to be minimal.

**Small Business Effect:** Potential meaningful impact to the extent that small businesses have existing stock that does not comply with the bill's requirements, and they are unable to modify this stock or procure compliant chests.

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### **Additional Information**

**Prior Introductions:** HB 415 of 2015 received a hearing in the House Health and Government Operations Committee but was later withdrawn.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, U.S. Consumer Product Safety Commission, Department of Legislative Services

**Fiscal Note History:** First Reader - January 20, 2016  
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