
A G E N D A I T E M S U M M A R Y**Reference No:** CB-6-1990**Draft No:** 2**P r i n c e G e o r g e ' s****Meeting Date:** 4/17/90**C o u n t y C o u n c i l****Requestor:** M

Item Title: Emergency Act to prohibit the attempted
possession of a controlled dangerous
substance and other related provisions

Sponsors M

Date Presented	1/23/90	Executive Action	4/26/90	S
Committee Referral	(1) 1/23/90	FP&GO	Effective Date	4/26/90
Committee Action	(1) 3/5/90	FAV(A)		
Date Introduced	3/20/90			
Pub. Hearing Date	(1) 4/17/90	2:00	PM	
Council Action	(1) 4/17/90	Enacted		
Council Votes	B_: A_, CA: --, C_: A_, CI: --, H_: --, M_: A_, P_: A_, W_: A_, WI: A_, __: __, __: __, __: __			
Pass/Fail	P			

Remarks

Ralph E. Grutzmacher	Resource
Drafter: Legislative Officer	Personnel:

LEGISLATIVE HISTORYFISCAL AND PLANNING COMMITTEE REPORT

DATE: March 5, 1990

Committee Vote: Favorable, as amended, 3-0 (In favor: Council Members Castaldi, Pemberton and Wineland)

Alexander Williams, States Attorney stated that this legislation is needed because there is no State legislation that directly covers attempted possession. Also, the sale of placebo drugs by undercover officers has been an effective demand-reduction technique, particularly in discouraging traffic at the open-air markets in the County. In 1989, the police arrested 609 individuals for attempted possession of a Control Dangerous Substance (CDS) as part of "Operation Triple Play."

Robert Harvey, Office of State's Attorney discussed the origin of this practice of selling placebo drugs in order to arrest potential buyers.

At the present time the County Code is not sufficient to prosecute individuals suspected of transactions under the existing controlled substance laws. This bill will eliminate some of the loop holes that exist at the present time while including a fine of \$1,000 or imprisonment of six months or both.

There have been a number of court challenges in which the defense counsel has attacked the validity of a charge of attempted possession of a controlled substance when the substance actually possessed is a noncontrolled substance or a fake controlled dangerous substance.

The following amendments were approved:

1. On page 2 line 8 insert "or any substance believed to be cocaine, phenycyclidine, marijuana or any other drugs, substance or immediate precursor in Schedule I through V of Article 27, Section 279 of the Annotated Code of Maryland, 1957 as amended.

2. Section (b) lines 9 thru 13 of page 2 should be deleted from the definitional section and added to Sec. 14-160 Unlawful Acts as item (c).

3. On page 2 line 18 delete the word "where" and insert "with knowledge that".

The Legislative Officer and the Office of Law have reviewed this legislation and find it to be in proper legislative form.

There will be no negative fiscal impact on the County as a result of adopting this legislation. Any revenue generated from fines will be positive.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

Recent court decisions have held that the use of "imitation" controlled dangerous substances in police investigation activities is not sufficient to prosecute persons suspected of transactions under existing controlled dangerous substance laws. This legislation would make unlawful attempted possession of a controlled dangerous substance, treat possession of an imitation material as a controlled dangerous substance if the accused believed that the material was a controlled dangerous substance, make the use of motor vehicles to transport or facilitate the sale, transport or concealment of a controlled dangerous substance unlawful and provide penalties for violation of imprisonment of six months, fines of \$1000 or both.

The bill is an emergency bill.