

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 352

(Chair, Economic Matters Committee)(By Request -
Departmental - Labor, Licensing and Regulation)

Economic Matters

State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration
Contractors - Civil Penalties - Citation Authority

This departmental bill authorizes an investigator employed by the Department of Labor, Licensing, and Regulation (DLLR) to issue civil citations on behalf of the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration (HVACR) Contractors.

Fiscal Summary

State Effect: General fund revenues increase minimally beginning in FY 2014 from citations issued under the bill. General fund expenditures for DLLR increase by \$5,000 in FY 2014 for a one-time programming expense to implement the citation system and increase minimally beginning in FY 2014 for administrative costs associated with the program. DLLR can implement the bill with existing investigative staff.

Local Effect: None.

Small Business Effect: DLLR has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: An investigator employed by DLLR may issue civil citations on behalf of the State Board of HVACR Contractors to individuals who violate the Maryland HVACR Contractors Act, whether or not the individual is licensed by the board. The board may establish by regulation a schedule of violations and fines to be used for civil

citations issued under the bill. A citation must include specified identifying information, including (1) the name and address of the person charged; (2) the nature, location, and time of the violation; (3) the amount of the fine and the manner, location, and time in which the fine may be paid; (4) the cited person's right to a hearing for the violation; and (5) a warning that failure to pay the fine or to contest liability in a timely manner is an admission of liability and may result in an entry of a default judgment that may include a fine, court costs, and administrative expenses. The board must keep a copy of the citation. The board must pay any penalty collected under the bill into the general fund of the State.

Current Law: The State Board of HVACR Contractors licenses individuals who offer heating, ventilation, air conditioning, and refrigeration services to protect the public, maintain efficient and safe systems, and promote high professional standards in the industry. "Providing heating, ventilation, air conditioning, or refrigeration services" means installing or maintaining heating, cooling, refrigeration, ventilation, or hydronic systems. The board issues the following types of licenses: master, master restricted, limited, journeyman, journeyman restricted, and apprentice. In general, an individual must be licensed by the board prior to providing or offering to provide HVACR services in the State.

A master license authorizes an individual to provide all HVACR services. A master restricted license authorizes an individual to provide HVACR services in one of the following categories: (1) heating – forced air systems; (2) heating – hydronic systems; (3) ventilation; (4) air conditioning; or (5) refrigeration. An individual may hold restricted licenses in up to four categories. A limited license authorizes a licensee to only maintain or repair one or more HVACR systems. Journeyman and journeyman limited licensees must provide applicable HVACR services under the direction and control of a licensed HVACR contractor. Apprentices may only assist in providing HVACR services while under the direction and control of a licensed HVACR contractor and in a training program to become a journeyman.

A holder of a master, master restricted, or limited HVACR license may not contract to provide HVACR services on behalf of the licensee or another person who provides HVACR services unless the work is covered by at least \$300,000 of general liability insurance and \$100,000 of property damage insurance.

Civil Penalties

In general, the board may impose a civil penalty of up to \$5,000 for any violation of the Maryland HVACR Act. The board may also, for specified civil violations, deny a license application or renewal, reprimand a licensee, or suspend or revoke a license. Generally,

five violations of the Act are misdemeanors and are subject to a maximum penalty of a \$1,000 fine and/or six months imprisonment:

- providing or assisting in the provision of HVACR services without a master license or maintaining or repairing HVACR systems without a limited license;
- employing unlicensed individuals to provide HVACR services where the employer is in the business of providing HVACR services;
- knowingly employing unlicensed individuals to provide HVACR services;
- representing that a person is licensed to provide HVACR services when that person is not licensed; or
- providing HVACR services without fulfilling specified insurance requirements.

Enhanced penalties exist for subsequent violations except for those related to fulfilling the Act's insurance requirements.

Background: Chapter 333 of 2011 (HB 362) authorized the Maryland Home Improvement Commission to issue civil *citations* to individuals who fail to comply with State home improvement laws or regulations. The commission was authorized to establish, by regulation, a schedule of violations and associated fines to identify the circumstances under which a civil citation may be issued. Violations include (1) offering to act or acting as a home improvement contractor without a license from the commission and (2) publishing a false, misleading, or deceptive advertisement.

State Fiscal Effect: General fund revenues increase minimally beginning in fiscal 2014 and by approximately \$5,000 annually thereafter from *citations* issued under the bill. DLLR anticipates issuing approximately 50 citations annually. General fund expenditures for DLLR increase by \$5,000 in fiscal 2014 for a one-time programming expense to implement the citation system and increase by approximately \$1,000 annually beginning in fiscal 2014 for administrative costs associated with the program. DLLR advises that, because multiple occupational and professional licensing boards share investigators, it can implement the bill with existing staff.

The bill is not expected to affect the quantity of civil *penalties* issued by the board, as civil penalties are typically assessed by the board for serious violations under current law. Operational impacts from increased hearings under the bill are assumed to be minimal and absorbable within existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2013
ncs/mcr

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Board of Heating, Ventilation, Air-Conditioning and Refrigeration Contractors – Citation Authority

BILL NUMBER: HB 352

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.