

Department of Legislative Services

Maryland General Assembly

2016 Session

FISCAL AND POLICY NOTE

First Reader

House Bill 1339

(Delegate K. Young)

Environment and Transportation

Environment - Radiation Machines - Registration Fees and Inspections

This bill repeals specific statutory provisions regarding the fee schedule and inspection policies for radiation machines or other sources of radiation at dental facilities. Instead, these facilities are regulated under general provisions that govern machines and other sources of radiation. Under the bill, the Maryland Department of the Environment (MDE) must adopt regulations based on the anticipated cost of monitoring and regulating sources of radiation by establishing a (1) fee schedule for general and specific licenses and (2) uniform fee schedules for the registration of accelerators and other radiation machines or sources of radiation.

Fiscal Summary

State Effect: Potential minimal increase in expenditures for the University of Maryland Medical Center (UMMC) and the University of Maryland School of Dentistry beginning in FY 2017 from any increase in inspection fees established by MDE under the bill. This analysis assumes no net special fund impact for MDE as special fund fee revenues continue to cover special fund expenditures.

Local Effect: No material impact on local government finances or operations.

Small Business Effect: Minimal, as discussed below.

Analysis

Current Law:

General and Specific Licenses Relating to Radiation Sources: MDE adopts rules and regulations for general licenses and specific licenses that govern (1) ionizing radiation sources and byproduct material; (2) special nuclear material; and (3) devices that use ionizing radiation sources, byproduct material, and special nuclear material. The Secretary of the Environment may adopt rules and regulations that establish a fee schedule for general licenses, specific licenses, and the registration of radiation machines or other sources of radiation. In adopting the regulations, MDE must consult with the regulated profession or industry to determine that the license fee is reasonable and directly related to the actual cost of the licensing and regulatory activity.

Fee Schedule for Radiation Sources within Dental Facilities: For a dental office or dental facility operated by a licensed dentist, a partnership of licensed dentists, a professional association of licensed dentists, or a public health dental facility, the Secretary may adopt regulations that establish a fee to offset the costs of monitoring and regulating sources of radiation within that dental facility. Statute establishes an increasing maximum fee that began at \$60 per dental radiation machine in 2002 and is currently set at \$80 per dental radiation machine per year. The Secretary of the Environment must reduce fees proportionately to reflect the balance of any unspent or unencumbered fees collected in the previous fiscal year.

Inspections of Radiation Sources within Dental Facilities: In general, MDE may only inspect the dental radiation machines at a dental facility once every three years. MDE may inspect a dental facility more frequently if MDE has grounds to believe that a violation of laws regarding dental radiation machines or a hazard associated with the use of radiation may exist. If a dental radiation machine is not inspected within any three-year period and all annual fees were paid during that three-year period, an additional annual inspection fee is not required to be paid until an inspection is performed.

A State inspector of dental radiation machines must provide a specified notice to the dental office or facility if there is a violation that does not present a serious and probable danger to patients or employees. The notice must (1) explain the nature of the violation and the required corrective action; (2) indicate that the office or facility has 20 days to comply with the corrective action; and (3) inform the dental office or facility to notify MDE that the corrective action has been completed. If the corrective action is completed in the 20-day period, MDE may not impose a fine on the office or facility for the violation.

Dental Schools Exempt: Current law related to maximum fees and inspections specific to monitoring and regulating sources of radiation at dental facilities do not apply to dental schools accredited by the Commission on Dental Accreditation of the American Dental Association.

State Fiscal Effect: Fees for operating a dental radiation machine in the State are \$80 annually and inspections are generally performed every three years. MDE conducts inspections at dental schools, such as the University of Maryland School of Dentistry, free of charge. Although the bill repeals the general restriction on inspecting dental facilities no more than once every three years, MDE advises that, at current staffing levels, the department cannot perform inspections more frequently than every three years and does not plan to hire additional staff to do so. Thus, this analysis assumes that the inspection schedule remains the same.

MDE currently collects approximately \$2.2 million in fee revenues annually from radiation machines, which largely covers the program's annual expenditures of \$2.3 million. According to MDE, there are a total of 14,955 radiation tubes in the State. Of these, 10,110 (68%) are located in dental facilities. MDE sets fees to cover program costs. Given the current statutory cap on dental facility fees, MDE must set higher fees for nondental facilities. Most nondental facilities pay a \$440 biennial fee (paid \$220 annually). Under the bill, MDE is able to increase fees for dental facilities. Thus, MDE advises that it plans to adjust fees more equally among radiation machines sufficient to maintain current revenues. While fees for dental facilities increase, fees for nondental facilities are generally reduced (MDE advises that the fee for high-energy machines likely remains the same). For *illustrative purposes only*, if total program expenditures for fiscal 2016 were split evenly among the lower energy radiation machines, a biennial fee of \$298 (\$149 annually) would cover program expenditures. Under this illustrative example, dental facility fees increase by \$69 annually, while fees for most nondental facilities decrease by \$71 annually.

Based on these anticipated fee changes, expenditures for the University of Maryland School of Dentistry and UMMC may increase minimally beginning in fiscal 2017, as the School of Dentistry operates 100 radiation machines and UMMC operates 7. MDE does not charge dental schools for inspections and advises that the department may continue to waive inspection fees for dental schools under the bill. Nevertheless, if MDE establishes a fee for those entities, expenditures for both dental schools increase. However, this increase is likely no more than \$15,000 annually for the School of Dentistry and \$1,043 for UMMC. Further, a decrease in the fees related to other radiation machines at UMMC likely offsets this expense.

Small Business Effect: It is assumed that a small business has a low number of radiation machines. Thus, any increase in expenditures from fees or additional inspections for dental facilities is likely minimal. Further, if MDE adjusts the fees and charges all radiation machine facilities in the State the same fee, costs related to radiation machine inspections decrease for other small businesses such as veterinarians, mammography providers, medical offices, and hospitals.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a crossfile, SB 717 (Senator Young - Education, Health, and Environmental Affairs) is not identical.

Information Source(s): University of Maryland Medical System, University System of Maryland, Maryland Department of the Environment, Department of Health and Mental Hygiene, Department of Legislative Services

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