

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 1116
Economic Matters

(Delegate Harrison)

Finance

Business Regulation - Restaurants and Traders - Licensing Requirements

This bill requires a licensed restaurant to also have a trader’s license if the restaurant does business as a trader or exhibitor in the State. However, the bill exempts from the requirement to obtain a trader’s license a licensed restaurant that generates 10% or less of its annual sales from nonfood items.

Fiscal Summary

State Effect: As the bill is expected to apply in a limited number of cases, it is not anticipated to materially affect State finances or operations. The circuit courts can likely handle any increase in licensing activity with existing resources.

Local Effect: Local government revenues are likely minimally affected, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Except in Montgomery County, a person must have a restaurant license whenever the person operates a restaurant or other eating place in the State.

Generally, a person must have a trader’s license whenever the person (1) does business as a trader in the State or (2) does business as an exhibitor in the State. However, this requirement does not apply to:

- a grower, maker, or manufacturer of goods;
- a nonresident traveling salesperson, sample merchant, or representative of a foreign mercantile or manufacturing business while selling to or soliciting an order from a licensed trader in the State; or
- a private individual while publicly selling the individual's personal effects on the individual's property, if the individual holds only one sale not exceeding 14 consecutive days in a calendar year; or
- a restaurant licensed under Title 17, Subtitle 16 of the Business Regulation Article.

Licensing revenues under Title 17 of the Business Regulation Article are generally split between the State general fund and the counties in which the licenses are issued. In general, the State retains 8% of the fees in the general fund and the counties retain 92% of the licensing revenue.

Chapter 315 of 2022 updates, clarifies, and alters numerous provisions governing miscellaneous State business licenses under Title 17 of the Business Regulation Article. Among other changes, Chapter 315 also alters numerous provisions relating to other specific types of licenses, including restaurant licenses and trader's licenses.

Local Revenues: As the bill repeals an exception for licensed restaurants to hold both a trader's license and a restaurant license, local revenues may increase as a result of issuing additional licenses; overall, however, the bill's changes to this licensing requirement is expected to be minimal, and thus have no material effect on local revenues. For example, Anne Arundel and Frederick counties report this requirement has no fiscal impact on the counties. However, the repeal of the existing exception is likely partially offset by the new exception established by the bill (*i.e.*, for restaurants that generate 10% or less of annual sales from nonfood items).

Small Business Effect: Restaurants that are small businesses may, in some cases, be required to obtain both a trader's license and a restaurant license under the bill, to the extent such restaurants do not qualify for an exemption under other provisions of law. However, the additional exception established by the bill may allow many restaurants to remain exempt, to the extent they remain below the annual sales threshold for nonfood items.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Anne Arundel, Frederick, and Montgomery counties; Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Legislative Services

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