

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 115 (Senator Boozer)
Economic and Environmental Affairs

**Department of Labor, Licensing, and Regulation - Denial, Suspension, or
Revocation of a License, Certificate, Permit, or Registration and
Reprimand on Conviction of Certain Crimes**

This bill allows the Department of Labor, Licensing, and Regulation (DLLR) to deny, suspend, or revoke certain professional licenses, certificates, permits, or registrations if an applicant is convicted of a felony, or a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to practice the licensed activity. The bill identifies five factors that DLLR must consider when making its determination: (1) the nature of the crime; (2) the relationship of the crime to the activities authorized by the license; (3) other crimes of which the applicant or licensee has been convicted; (4) the length of time since the conviction; and (5) the behavior and activities of the applicant or licensee before and after the conviction. The bill authorizes DLLR to consider other relevant information.

This bill has an effective date of July 1, 1998.

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues. Potential minimal increase in general fund expenditures.

Local Effect: None.

Small Business Effect: None.

Fiscal Analysis

Background: During 1996, in Linkus v. State Board of Heating, Ventilation, Air-Conditioning and Refrigeration Contractors, the Court of Special Appeals considered whether HVACR exceeded the scope of its authority when it denied an applicant a license based solely on his rape conviction six years earlier. The court held that a board may not consider an applicant's criminal record absent a specific grant of authority from the Legislature in the licensing statute.

State Effect: This bill applies to accountants, architects, electricians, foresters, certified interior designers, pilots, plumbers, professional engineers, professional land surveyors, real estate brokers, cemeterians, home improvement contractors, secondhand precious metal object dealers and pawn brokers, and heating, ventilation, air-conditioning, and refrigeration contractors, real estate appraisers, barbers, and cosmetologists.

Many professional boards and commissions already have specific statutory authority to consider an applicant's criminal record for the purpose of making licensing decisions. Thus, this bill only affects those boards by providing consistent standards among them. Additionally, those boards without specific statutory authority have traditionally considered an applicant's criminal record anyway in reliance on a 1972 Opinion of the Attorney General which stated that "the various licensing agencies of the Department of Labor, Licensing and Regulation are empowered, whether by specific statutory enactment or by administrative rule, to rely on an applicant's criminal record in determining whether such person should be issued a license." To the extent that the bill merely codifies past practice, it will not affect State finances.

On the basis of past practice, DLLR advises that it would not subject every applicant to a criminal background check. Rather DLLR will discover prior criminal convictions by asking the applicant whether s/he has been convicted of a crime on the license application form. Based on this information, the licensing boards should not incur additional costs to identify those applicants who have been convicted of a felony or crime of moral turpitude. Currently, in a majority of cases where the licensing board already has the authority to consider prior convictions and where the applicant indicates a prior conviction, the application is approved on informal review or after a formal hearing. Accordingly, the bill's provisions are expected to affect only a limited number of applicants or licensees, and it is assumed that few licenses would be denied, revoked, or suspended as a result. Thus, licensing and renewal fees collected and deposited into the State general fund could decrease minimally, and any increased workload for the Office of Administrative Hearings could be absorbed within existing resources.

Finally, under the Administrative Procedures Act, if a license is denied, the applicant has the right to appeal the decision to the Circuit Court. Any increase to the Judiciary's workload would be minimal and could be absorbed within existing resources.

Information Sources: Department of Labor, Licensing, and Regulation; Office of Administrative Hearings; Department of Legislative Services

Fiscal Note History: First Reader - January 21, 1998
lc Revised - Senate Third Reader - March 23, 1998
Revised - Enrolled Bill - May 12, 1998

Analysis by: Jo Ellan Jordan	Direct Inquiries to:
Reviewed by: John Rixey	John Rixey, Coordinating Analyst
	(410) 841-3710
	(301) 858-3710